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SAN FRANCISCO ARTS COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

AGENDAS AND MINUTES

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Dianne Feinstein
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Ray Taliaferro

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Presidents of the
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Commission

STREET ARTISTS PROGRAM COMMITTEE

January 29, 1985
Main Library - Commission Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Hanson, Taliaferro.

Chairman Taliaferro called the meeting to order at 2:03 p.m.

I REQUEST BY APPLICANT FOR POSTPONEMENT IN OBTAINING CERTIFICATE

A. Leo Mora. Program Director Lazar explained that Mr. Mora had been approved for certification by the Advisory Committee of Street Artists and Craftsmen Examiners on January 8, 1985, that Mr. Mora was on disability because of a spine injury, and that he was presently waiting for funds to pay for his street artist certificate. According to the Commission's policy, an applicant is allowed ten office work days from the date of his/her screening of wares, to obtain a certificate; Mr. Mora was asking for an extension of time.

Commissioner Hanson moved that Mr. Mora be provided with a one-month postponement (from the date of Arts Commission action) in obtaining a certificate. The motion was seconded by Commissioner Taliaferro and unanimously approved.

II REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Hamish Thompson - Certificate #2585 expired October 31, 1984; Mr. Thompson's request for priority was received on January 16, 1985. Commissioner Hanson moved that Mr. Thompson's request for priority in issuance of certificate be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

III LEGISLATION GRANTING PRIORITY TO VETERANS

Mr. Lazar presented the Committee with the requested legislative draft by the City Attorney, granting priority to veterans in Advisory Committee action on applications for certification; as requested by the Commission, the draft included a provision for the Arts Commission to review the priority policy in a year and to recommend its reauthorization to the Board of Supervisors (a "sunset provision"). Commissioner Hanson moved

Continued.....

that the legislation from the City Attorney granting priority to veterans in Advisory Committee action on applications for street artist certificates be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

IV AMENDMENTS TO HARING PROCEDURE OF STREET ARTIST VIOLATIONS

Mr. Lazar informed the Committee of a suggestion from the Board of Permit Appeals in a recent hearing with a street artist, that the Arts Commission amend its "Hearing Procedure of Street Artist Violations" by adding to the list of violations meriting suspension and revocation the violation of "conducting business in a disorderly, improper, or hazardous manner." On February 1, 1983, the City Attorney's office clarified that the Commission has "general powers applicable to all permit-issuing departments contained in Part III of the San Francisco Municipal Code," including the power to revoke a permit "when it shall appear that the business or calling of the person ... to whom it was granted is conducted in a disorderly, improper, or hazardous manner." The Board of Permit Appeals, in the recent street artist hearing, acknowledged the Commission's general powers but advised that the business conduct violation be listed explicitly in the list of violations which the Commission acts on. Mr. Lazar said that, after the Permit Appeals hearing, one of the Board members offered him the recommendation that the Commission's "Hearing Procedure" also include an explicit statement that the Commission may suspend or revoke a certificate for good cause.

Commissioner Hanson moved that the City Attorney be requested to draft amendments to the "Hearing Procedure," relative to suspension or revocation of certificate for conducting business in a disorderly, improper, or hazardous manner and for good cause, and to advise on whether a provision could be included for the revocation of a certificate for disorderly, improper, or hazardous conduct of business without a previous suspension of the certificate for the same violation. The motion was seconded by Commissioner Taliaferro and unanimously approved.

V RECOMMENDATION OF REVOCATION OF CERTIFICATE OF KERLENE BURKETT

Mr. Lazar asked the Commissioners to consider his recommendation that the Committee's recommendation of revocation of Kerlene Burkett's certificate be withdrawn due to a lack of preponderance of evidence. Commissioner Taliaferro moved that the recommendation of revocation of Kerlene Burkett's certificate be withdrawn, that Ms. Burkett be informed of this and also informed that the Commission will continue to carefully monitor her and Mr. Padilla's operation, including their usage of the two handicapped parking spaces at the Cliff House. The motion was seconded by Commissioner Hanson and unanimously approved.

VI PROPOSAL FROM STREET ARTIST WILLIAM CLARK FOR NEW LOTTERY SYSTEM

Continued.....

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Street Artist William Clark told the Committee that he wanted to present his proposal, open it to discussion among the artists and Commissioners, and that he did not intend the Committee to reach a decision on the proposal at this meeting. He said the purpose of his proposed lottery system was to ensure that no one would be able to monopolize usage of prime spaces.

Street Artist Eunice Rodriguez presented a petition of 52 street artist signatures gathered, she said, in thirty minutes at the lottery. The petition was against any changes in the lottery at this time because there are not enough artists at the lottery this time of the year to make a decision. Mrs. Rodriguez said she did not feel a handful of artists should make decisions for the rest, and that most of the people would be back on the streets by May or June. She added that the people who had signed the petition were not necessarily opposed to Mr. Clark's proposal but were requesting that its adoption be held off at this time.

Mr. Clark said that no one on the petition talked to him about his lottery and were not, therefore, in a position to make a valid judgment. He said that his proposal would have to be acted upon by the Arts Commission and the lottery regulations would have to be amended by the Board of Supervisors. He said he would like to see the change instituted by May. He was proposing one lottery. He said that at present there were six main lotteries and eight mini-lotteries per week, sixty-nine prime locations in the entire city, thirty-three of which are given away weekly to people helping to run the lottery. With his system, only ten spaces per week would be given to lottery helpers, thus freeing twenty-three spaces for the lottery. Also, combining all spaces into one lottery would eliminate much of the paperwork. His lottery offered the following usage of spaces: 100 spaces x 7 days a week = 700 spaces available each week; 700 spaces divided by roughly 200 artists = 3 prime spaces per artist per week. The present lottery procedure would remain intact, with the exception that the artist would use his/her number for the entire week, and the last three people of the lottery would be the helpers for the following Sunday. The proposed concept would be a rationing system allocating the prime spaces equitably to everyone.

The proposal was endorsed by Street Artists Guy Holman and Robert Stone, attending the meeting. Mr. Stone spoke of present family unit monopolization of spaces on Beach Street and by Neiman-Marcus. Street Artist Robert Clark said that the porposal would take the luck out of system: for every person who is lucky in the present system, there is someone who is not lucky.

It was decided to continue the discussion at the Program Committee meeting scheduled for March, to allow time for the artists to explore the proposal.

Continued.....

VII NEW BUSINESS

Mr. Robert Clark told the Commissioners that he contacted the City Attorney's office and learned that the City Attorney is processing the complaint against the Longshoreman's Union (for usage of their parking lot by vendors). He asked that the Arts Commission tell the City Attorney's office that it would like that office to proceed with seeking "an abatement of the nuisance."

Mr. Clark told the Commissioners that he and his brother have a film by a Stanford student in 1971 on "the magic of the street artists." He requested that it be scheduled for viewing in a future Program Committee meeting, whenever Mr. Lazar can obtain a projector.

The meeting adjourned at 3:30 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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THE ARTS
COMMISSION
OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415/ 558 3463
558

STREET ARTISTS PROGRAM COMMITTEE

Tuesday, April 30, 1985 - 2:00 p.m.
Public Library, Civic Center Branch
Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco, California

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A G E N D A

I REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Beatrice Nessenson - applied November 3, 1982; requests postponement of screening until August, 1985.

B. Joan Vogel (Cook) - applied August 20, 1982; requests postponement until August, 1985.

II REQUEST BY APPLICANT TO SUBMIT PAYMENT FOR CERTIFICATE AFTER GRACE PERIOD

A. Janice Passante - was screened March 26, 1985, and allotted ten office work days to pay for certificate; Ms. Passante called the office on April 11th (one day past the tenth grace period day) to request acceptance of her payment.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Mary Lavin - applied June 1, 1981, and did not receive notification of screening; her new address was submitted with her request for priority, April 15, 1985.

IV REQUESTS BY FORMER CERTIFICATEHOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sandra O'Brien - Certificate #36 expired January 1, 1985; her request for priority was received by the office on April 10, 1985.

B. Michael Kute - Certificate #360 expired March 7, 1985; his payment for renewal was postmarked April 13, 1985 (the final grace period day for renewal was March 21st).

C. Victoria White - Certificate #829 expired March 12, 1985; her payment for renewal was postmarked April 13, 1985 (the final grace period day for renewal was March 26th).

D. Gin Ku - Certificate #2809 expired March 2, 1983; his request was received April 24, 1985.

E. William J. Ryan - Certificate #1836 expired December 14, 1983; his request was received February 28, 1985.

V STREET ARTIST PETITION FOR ARTS COMMISSION TO REQUEST RECREATION-PARK COMMISSION TO APPROVE 23 SELLING SPACES IN GOLDEN GATE PARK (AS PER BOARD OF SUPERVISORS RES. NO. 572-77)

VI NEW BUSINESS

Dianne Feinstein
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DIRECTOR

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STREET ARTISTS PROGRAM COMMITTEE

April 30, 1985
Public Library, Civic Center
Lurie Room
San Francisco, California

M I N U T E S

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DIRECTOR

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Vice President

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Ray Taliaferro

EX OFFICIO MEMBERS
Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

Present: Commissioner Taliaferro

Chairman Taliaferro called the meeting to order at 2:05 p.m.

I REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. William J. Ryan - Certificate #1836 expired December 14, 1983; his request was received by the Program office February 28, 1985. Mr. Ryan submitted a letter from his doctor and said that he had had a breakdown for a year and that he was feeling better now. When he sold his wares as a street artist, he would sell three days a week, always on Beach Street. Commissioner Taliaferro said he would recommend approval of Mr. Ryan's request, at the full Commission meeting.

B. Gin Ku - Certificate #2809 expired March 2, 1983; his request was received April 24, 1985. Commissioner Taliaferro reviewed the letter submitted on Mr. Ku's behalf by an acupuncturist testifying to the patient's inability to work. Mr. Ku said he was better now. He showed the Commissioner his paintings. Commissioner Taliaferro said he would recommend approval of Mr. Ku's request.

C. Sandra O'Brien - Certificate #36 expired January 1, 1985; her request for priority was received on April 10, 1985. Commissioner Taliaferro said he would recommend approval of Mrs. O'Brien's request.

D. Michael Kute - Certificate #360 expired March 7, 1985; his payment for renewal was postmarked April 13, 1985 (the final grace period day for renewal was March 21st). The Commissioner said he would recommend approval of Mr. Kute's request.

E. Victoria White - Certificate #829 expired March 12, 1985; her payment for renewal was postmarked April 13, 1985 (the final grace period day for renewal was March 26th). The Commissioner said he would recommend approval of Ms. White's request.

II REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Beatrice Nessenson - applied November 3, 1982; requested postponement of screening until August, 1985. Commissioner Taliaferro said he would recommend approval of Mrs. Nessenson's request.

Continued.....

B. Joan Vogel (Cook) - applied August 20, 1982; requested postponement until August, 1985. The Commissioner said he would recommend approval of Ms. Vogel's request.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Mary Lavin - applied June 1, 1981, and did not receive notification of her screening; her new address was submitted with her request for priority April 15, 1985. Commissioner Taliaferro said he would recommend approval of Ms. Lavin's request.

IV REQUEST BY APPLICANT TO SUBMIT PAYMENT FOR CERTIFICATE AFTER GRACE PERIOD

A. Janice Passante - was screened March 26, 1985, and was allotted ten office work days to purchase her certificate; Ms. Passante called the office on April 11th (one day past the tenth grace period day) to request that her payment be accepted. Commissioner Taliaferro said he would recommend approval of Ms. Passante's request.

V STREET ARTIST PETITION FOR ARTS COMMISSION TO REQUEST RECREATION-PARK COMMISSION TO APPROVE 23 SELLING SPACES IN GOLDEN GATE PARK

Street Artist Dennis Bustillos appeared to verify the petition of artists' signatures he had submitted to the office. The twenty-three spaces in Golden Gate Park had been designated by the Board of Supervisors in their Resolution No. 572-77 (1977); the spaces were subject to the approval of the Rec-Park Commission which had never given approval for them. Commissioner Taliaferro asked Program Director Lazar to contact Mary Burns of Rec-Park and find out what the status was of the spaces. Mr. Bustillos told the Commissioner that he wanted to sell there, especially since he had heard that five spaces on Jefferson Street were going to be eliminated due to construction. The Commissioner asked him if he envisioned the Park's 23 spaces as part of the regular lottery or whether they would have their own lottery. Mr. Bustillos said he would leave it up to the Arts Commission to decide. The Commissioner said he would recommend that the petition's request be approved.

The meeting adjourned at 2:30 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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Claire N. Isaacs
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EX OFFICIO MEMBERS
Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

STREET ARTISTS PROGRAM COMMITTEE

Tuesday, May 21, 1985
2:00 p.m.
Main Library - Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco, California

A G E N D A

I REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Judy C. W. Lem - applied November 4, 1982; requests postponement of screening to May, 1986.

B. William Eales - applied September 20, 1982; requests postponement to August, 1985.

C. Arthur D. Boyd - applied November 1, 1982; requests postponement to May, 1986.

II REQUEST BY CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE TO APPLICANT AS FAMILY UNIT MEMBER

A. Gloria Turchi (Certificate #3032) requests priority in issuance of certificate to her husband as a family unit member.

III REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Ronald Allerton - Certificate #2792 expired March 2, 1985; request received by Program office May 14, 1985.

B. Kathleen Wilcox - Certificate # 2751 expired July 19, 1983; request received August 2, 1984; request for postponement of Program Committee hearing received by office November 16, 1984 and January 28, 1985; new request for hearing received by office May 15, 1985.

IV REQUEST BY CERTIFICATE-HOLDER FOR EXTENSION OF RENEWAL BY MAIL

A. Donna Plessner (Certificate #2228) requests a third consecutive renewal by mail, due to inability to be in California at time of next renewal (June 14).

V REQUEST BY STAFF FOR RESOLUTION IN APPRECIATION OF SHERRI NESSENSON AND OTHER ARTISTS FOR THEIR FUNDRAISING TO HELP THE PEOPLE OF ETHIOPIA

VI NEW BUSINESS

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Dianne Feinstein
MAYOR

Claire N. Isaacs
DIRECTOR

STREET ARTISTS PROGRAM COMMITTEE

May 21, 1985
Main Library - Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

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William Paterson
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Peter Rodriguez
Ray Taliaferro

Ex Officio Members:

Presidents of the
Fine Arts Museums
Library Commission
Planning Commission
Recreation and Park
Commission

Present: Commissioners Taliaferro and Hanson.

Chairman Taliaferro called the meeting to order at 2:00 p.m.

I REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Judy C. W. Lem - applied November 4, 1982; requested postponement of screening to May, 1986. Commissioner Hanson moved that Ms. Lem's request be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

B. William Eales - applied September 20, 1982; requested postponement to August, 1985. Commissioner Hanson moved that Mr. Eales' request be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

C. Arthur D. Boyd - applied November 1, 1982; requested postponement to May, 1986. Commissioner Hanson moved that Mr. Boyd's request be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Kathleen Wilcox - Certificate #2751 expired July 19, 1983; request received by office on August 2, 1984; request for postponement of hearing received November 16, 1984, and January 28, 1985; new request for hearing received by office on May 15, 1985. Kathleen Wilcox told the Committee that she had been a street artist for seven years, had gotten married and moved to Mendocino County and gave up her certificate when she had a baby (Ms. Wilcox's husband continued to use his certificate). She decided to re-apply for a certificate but was unable to come to the scheduled Program Committee hearings due to workshop commitments. She was presently getting a divorce and it was mandatory that she find a job; where she lives is a small town which provides, she said, little opportunity for employment.

Program Director Lazar informed the Committee that on September 2, 1981, the Art Commission approved a request by a former

Continued.....

certificate-holder on the basis that she had had to relinquish her certificate due to maternity leave.

Commissioner Hanson moved that Ms. Wilcox's request be approved with waiver of re-screening requirement; the motion was seconded by Commissioner Taliaferro and unanimously approved.

B. Ronald Allerton - Certificate #2792 expired March 2, 1985; his request for priority received by office on May 14, 1985. Commissioner Hanson moved that Mr. Allerton's request be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

III REQUEST BY CERTIFICATE-HOLDER FOR EXTENSION OF RENEWAL-BY-MAIL

A. Donna Plessner - Certificate #2228; Ms. Plessner requested (in a letter) a third consecutive renewal-by-mail due to her inability to be in California at the time of her next renewal (June 14th). Mr. Lazar spoke of the time a similar request had been granted to another artist, for two additional renewals-by-mail. In Ms. Plessner's case, it was Mr. Lazar's understanding that she would need only one additional renewal-by-mail. Commissioner Hanson moved that Ms. Plessner's request be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

IV REQUEST BY STAFF FOR RESOLUTION IN APPRECIATION OF LINDA STARK AND OTHER ARTISTS FOR THEIR FUNDRAISING TO HELP THE PEOPLE OF ETHIOPIA

Mr. Lazar referred the Committee to a letter addressed to Street Artist Sherri Nessenson from Catholic Relief Services, expressing thanks for the money collected from verious artists in response to the crisis in Ethiopia. Commissioner Hanson moved that the following resolution be approved:

> WHEREAS numerous Street Artists have generously contributed funds for the Ethiopian relief,
>
> We, the Arts Commission, hereby congratulate these artists and extend our appreciation to Linda Stark representing the artists.

The motion was seconded by Commissioner Taliaferro and unanimously approved.

V NEW BUSINESS

Mr. Lazar informed the Committee that Mr. Harms had filed an appeal with the Board of Permit Appeals and that the case would have been heard on May 22nd but that it has been postponed to June 12th. Mr. Lazar also reported that he spoke with Officer Ray West of Central Station about the proliferation of vendors in the downtown and wharf areas under the auspices of "charitable organizations," and that

Continued.....

Officer West told him that charitable solicitation papers had been taken out with the State by the attorney of Mr. Harms on behalf of Mr. Harms and his vendors, under the name "San Francisco Craft Rehabilitation Foundation." The Police were then obligated to give a permit to Harms and his people to operate wherever they wish except in street artist spaces. Mr. Lazar said they have been operating close to street artist spaces in the prime areas. Because of the door opening for the proliferation of such vendors, Mr. Lazar said he would seek permission to submit legislation to the Supervisors to regulate these vendors.

Commissioner Taliaferro said that the Secretary of State's office should investigate to see whether there is any craft rehabilitation taking place and the status of the proceeds - how much money is taken in, how it is allocated. The goals of any non-profit organization have to be stated on the form filed with the State; these goals may be investigated by the Attorney General, upon submission of a complaint, as to whether the goals are being met.

The meeting adjourned at 2:35 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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6/25/85

SF Art Commission

THE ARTS COMMISSION OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415/558 3463

558

STREET ARTISTS PROGRAM COMMITTEE

Tuesday, June 25, 1985
2:00 p.m.
Main Library - Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco

A G E N D A

I HEARINGS ON ALLEGED VIOLATIONS

A. Paul Costa, Sue Costa (#2912, 2943) Alleged Violation (as per report submitted by Sherri Nessenson): (1) Paul Costa assault of Sherri Nessenson; (2) Paul and Sue Costa rumor re: Ms. Nessenson; (3) Paul and Sue Costa obstructing Ms. Nessenson from working in a sales space.

B. Robert Wild (#1775) Alleged Violation: Display of items not of the artist's own creation, specifically commercially-manufactured cloisonne-type jewelry (third offense).

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Armand Frederick (#2998) - certificate expired May 9, 1985; request for priority received by office May 29, 1985.

B. Donna K. Gray (#2423) - certificate expired May 5, 1985; request for priority received by office June 14, 1985.

C. John Kellington (#3013) - certificate expired April 13, 1985; request for priority received by office May 28, 1985.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF PERMIT

A. James Toolate - applied June 24, 1976; request for priority received by office May 14, 1985.

IV NEW BUSINESS

Dianne Feinstein
MAYOR

Claire N. Isaacs
DIRECTOR

COMMISSIONERS
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Dmitri Vedensky, Jr.
Vice President

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SF Art Commission

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THE ARTS
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OF SAN FRANCISCO

STREET ARTISTS PROGRAM COMMITTEE

June 25, 1985
Main Library - Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Present: Commissioners Hanson and Taliaferro

Chairman Taliaferro called the meeting to order at 2:10 p.m.

I HEARINGS ON ALLEGED VIOLATIONS

A. Paul Costa, Sue Costa (#2912, 2943). Program Director Lazar informed the Committee that he had received a report by street artist Sherri Nessenson that (1) Paul Costa had assaulted Ms. Nessenson twice on April 29, 1985; (2) Paul Costa and Sue Costa had spread a rumor that Ms. Nessenson had called the Police on them for having an oversized table; and (3) Paul and Sue Costa had obstructed Ms. Nessenson from working in an unassigned sales space on April 26, 1985 and Paul Costa had threatened her. Mr. Lazar submitted his report with attached letter by Ms. Nessenson and also letter-statements submitted by witnesses (street artists) Calliope Ladas and Renee Lepre. While Ms. Ladas and Ms. Lepre were not present, Mr. Lazar said that he had received testimony from Ms. Ladas in an informal meeting he had held with Mr. Costa and Ms. Nessenson, and, because of Ms. Ladas' statements as a witness, Mr. Lazar felt justified in submitting the case to the Program Committee for a hearing.

Sherri Nessenson related the assault incident to the Committee: she had been talking to Ms. Ladas behind Ms. Ladas' stand when Mr. Costa came by her and "rammed" her with his shoulder, causing her to fall against Ms. Ladas; Mr. Costa continued walking, then turned and came back and hit her again with his shoulder. On the Friday prior to this incident, said Ms. Nessenson, Mr. Costa tried to block her from working in an unassigned space: he put a board in the space and said it was for his wife, he was told by Ms. Nessenson to leave the space or to "burn" (use) his number for the space, he left the space and Ms. Nessenson sold in it. She added that, since the informal meeting with Mr. Lazar, Mr. Costa assaulted her again: he came behind her stand and swung a heavy case of jewelry against her leg; he also, she said, stepped on one of her bags of articles.

Commissioner Taliaferro read the letter-statements by Ms. Ladas and Ms. Lepre.

Ms. Rebecca Yulish told the Committee that she helps Ms. Nessenson set up her table in the mornings and stated that she was standing behind Ms. Ladas when she saw Mr. Costa assault Ms. Nessenson.

Continued.....

Dianne Feinstein
MAYOR

Claire N. Isaacs
DIRECTOR

COMMISSIONERS
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President

Dmitri Vedensky, Jr.
Vice President

Vernon Alley
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William Paterson
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EX OFFICIO MEMBERS
Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

Ms. Yulish said she did not see him return. Recently, she did see him step on Ms. Nessenson's bag of jewelry. She told the Committee that she thought he was "harrassing" Ms. Nessenson.

In answer to questions by the Committee, Mr. Costa said he did not agree with the accounts. He said that he had "brushed" against Ms. Nessenson because her chair had been in the way, he had tried to avoid her. He added that there was a monopoly of the spaces on Stockton Street, run by Ms. Nessenson, Ms. Ladas, and Ms. Peggy Reamer; when he started to sell jewelry, they started to harrass him. He said also that Ms. Nessenson uses someone to not only set up her display but to sell from it. In answer to the question as to why he traversed behind the stand and not in front of it, Mr. Costa replied that the artists always "use the back roads" to avoid bumping into customers. He said that while he had not had foul words with Ms. Nessenson, she and Ms. Reamer had spoken foul words to his wife . He added that the "conspiracy" of which he was speaking was a mini-lottery of spaces; he stated that he was the only one on the street fighting it. He also told the Committee that on two definite occasions he told Ms. Nessenson to leave him alone, and that when she comes near him, he backs away from her.

Mrs. Costa replied to questions by the Committee: her husbands statement sounded accurate to her, but she is usually not around to know what's going on. She was not present at the time of the alleged assault; she was also not around when there were alleged harsh words between her husband and Ms. Nessenson, though he did mention it to her. She said that there was competition and jealousy over the Costas because of their success in jewelry.

Street artist Wayne Konkright told the Committee that Mr. Costa got caught "in his own lie" when he stated that he had had to walk around the display because of Ms. Nessenson's "stuff" whereas the incident occurred at Ms. Ladas' stand. He added that the only reason Ms. Nessenson had had to speak to Mr. Costa was because she was enforcing the (space) occupancy rule.

Street artist Linda Stark told the Committee about the situation of artists racing dangerously to the spaces leftover from the lottery in order to claim them, and that the unofficial lottery came about to not only remedy the situation but to allow the artists to save their regular lottery numbers to claim spaces on the following day. She added that the Street Artist Liaison Committee will be taking up the issue tomorrow and will submit a recommendation to the Program Committee.

Street artist Peggy Reamer told the Committee about the time she had had words with Sue Costa. She said that what had started bad feelings on Stockton Street was the fact that both Sue and Paul Costa would enter the lotteries and very frequently Sue would be selling two days in a row in the same prime space, which meant that Paul gave her his space. Peggy, who had not been able to get a prime space, confronted Sue over the issue of Paul signing in for a space and giving it to Sue.

Continued.....

Sue, she said, told her that her husband was parking the car; forty minutes later, Sue was still in the space, and Peggy called her a liar.

Street artist Eunice Rodriguez suggested that a new lottery system be instituted on a daily basis, that this would solve the problems. Commissioner Taliaferro asked for a show of hands in the room in support of a daily lottery; there was a majority of hands.

Mr. Costa told the Committee that he wanted his wife to stop being harrassed, that the other artists were trying to push the Costas out of the Program because they, the Costas, make their own jewelry and do not have anyone selling for them. He said that he had participated in the "mini-lottery", had received a good number, but had refrained from using it. He had just wanted to see the "lottery" work.

Ms. Stark stated that Ms. Nessenson is handicapped and needed someone at her stand to help her. After the meeting with Mr. Lazar, Mr. Costa made references to her handicap in a foul manner. Fear and intimidation cannot exist in the work place.

Mr. Costa stated that these were all lies, that he too is handicapped and that he was not getting a pension from the state or municipal government. He added that there was no physical expression of his hostility against Ms. Nessenson.

Commissioner Taliaferro stated that there was enough evidence that people had perceived Mr. Costa's action as an assault against Ms. Nessenson. He did understand Mr. Costa's frustration concerning a monopoly. The Commissioner added that his Committee would like to see Mr. Costa agree to staying away from Ms. Nessenson. Commissioner Hanson said that that implied he walk not behind her stand. Mr. Costa replied that he would walk in front of the stand.

Commissioner Hanson moved that a strong warning be given to Mr. Costa that he be meticulous in avoiding any physical contact with Sherri Nessenson, even to the extent of going out of his way so that there could not possibly be any allegation in the future of any hostile physical contact between Mr. Costa and Ms. Nessenson, and in the event Mr. Costa does not follow this warning and the Arts Commission receives another complaint against him of this nature, the Arts Commission will forthwith send the complaint to the District Attorney's office for handling through the criminal justice system. The motion was seconded by Commissioner Taliaferro and unanimously approved.

Street artist Robert Clark asked that in the future the Committee have the City Attorney at their meetings involving assault charges.

B. Robert Wild (#1775). Mr. Wild was not present. Program Director Lazar referred the Commissioners to his report of Mr. Wild's alleged violation: displaying items (commercially manufactured cloisonne-type jewelry) not of his own creation. According to the report, the incident constituted

Continued.....

a third offense. On March 7, 1983, the Arts Commission found Mr. Wild in violation for displaying items not certified and not of his own creation, suspended the penalty, and resolved that any future violation of this type would warrant a one-year suspension. On October 3, 1983, the Commission found Mr. Wild guilty of the same violation and accordingly suspended his certificate for one year (November 2, 1983 - October 31, 1984). The most recent violation (June 6, 1985) while occurring under the Commission's present "Hearing Procedure," represented a third offense. Under the present "Hearing Procedure," the penalty for a second offense is revocation of certificate. The photos taken by Mr. Lazar were examined.

The Committee heard from street artist Sanford Aschinger who stated that the items being sold by Mr. Wild were "Taiwan cloisonne," and that he, Mr. Aschinger, has seen it in the wholesale houses and shops. Mr. Aschinger also stated that he himself makes cloisonne but could not possibly sell it at the prices offered by Mr. Wild.

Commissioner Hanson moved that, based on the evidence of Mr. Wild having displayed items not of his own creation, the certificate of Mr. Wild be revoked. The motion was seconded by Commissioner Taliaferro and unanimously approved.

The Committee asked Mr. Lazar to inform Mr. Wild of the date of the Commission's consideration of the recommendation.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Armand Frederick (#2998) - certificate expired May 9, 1985; request for priority received by office on May 29, 1985. Commissioner Hanson moved that Mr. Frederick's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

B. Donna K. Gray (#2423) - certificate expired May 5, 1985; request for priority received by office June 14, 1985. Commissioner Hanson moved that Ms. Gray's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

C. John Kellington (#3013) - certificate expired April 13, 1985; request for priority received by office May 28, 1985. Commissioner Hanson moved that Mr. Kellington's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

D. Bertha Underwood (#3017) - certificate expired May 27, 1985; request for priority received June 18, 1985. Commissioner Hanson moved that Ms. Underwoood's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. James Toolate - applied June 24, 1976; request for priority received by

Continued.....

office June 18, 1985. Mr. Lazar presented a photocopy of the Program's waiting list of applicants which showed James Toolate's name and the date of his application. Mr. Toolate told the Committee that he had been making jewelry and doing the Renaissance Fairs and other exhibitions. He does lost wax, brass fabrication, beadwork, and other forms. He also sold in Berkeley and had been a truck driver. As he had not heard from the Program, he decided recently to call and find out about his application. Commissioner Hanson moved that Mr. Toolate's request for priority be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

IV NEW BUSINESS

Mr. Lazar informed the Committee of the recent Board of Permit Appeals overruling of the Arts Commission in the Terry Harms case. Because certain statements were made by Mr. Harms with regard to his selling items as a charitable solicitation organization, Mr. Lazar asked the Committee for authorization to spend approximately $180 in the purchase of the transcript of the hearing, with the intent that the transcript be furnished to the Attorney General for an investigation. Commissioner Hanson moved that the transcript of the Terry Harms hearing before the Board of Permit Appeals (Appeal No. 85-110) be obtained. The motion was seconded by Commissioner Taliaferro and unaimously approved.

The Committee asked that the Program investigate the issue of charitable solicitors selling virtually without regulation in the city's streets, contact the District Attorney's office, and the Police attorney, and to calendar the matter before the Program Committee at the next meeting.

Commissioner Taliaferro asked the new Art Inspector, Mr. Wallace Brown, how his job was going during the past two weeks. Mr. Brown stated that he had found general compliance among the street artists, and that he had had to call the Police on several occasions on unlicensed vendors.

Street artist Robert Clark said that according to the artists on Stockton Street, illegal merchandise is pulled back out onto the tables as soon as the Inspector leaves. Mr. Clark advised the Inspector to use his imagination and vary the direction of his appearance on the street.

The meeting adjourned at 4:15 p.m.

Respectfully submitted by:

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

Tuesday, July 23, 1985

2:00 p.m.
Main Library-Civic Center
Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco

A G E N D A

I COMMUNICATION FROM CITY ATTORNEY: ARTS COMMISSION ENFORCEMENT OF SALES SPACE REGULATIONS; AMENDING ARTS COMMISSION HEARING PROCEDURE; PROVIDING FOR PENALTIES

II HEARING ON REGULATION OF CHARITABLE SOLICITORS ON PUBLIC STREETS AND SIDEWALKS

III REQUEST BY CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE TO APPLICANT AS FAMILY UNIT MEMBER

A. Gloria Turchi (Certificate #3032) requests priority in issuance of certificate to her husband as a family unit member.

IV REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Mark Gart - Certificate #2411 expired April 21, 1985; telephone-request for priority received by Program office July 12, 1985.

V NEW BUSINESS

THE ARTS
COMMISSION
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ARTS COMMISSION.

STREET ARTISTS PROGRAM COMMITTEE

July 23, 1985
Main Library, Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco

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M I N U T E S

The meeting convened at 2:12 p.m.

Commissioners Present: Taliaferro and Hanson.

I COMMUNICATION FROM CITY ATTORNEY: ARTS COMMISSION ENFORCEMENT OF SALES SPACE REGULATIONS; AMENDING ARTS COMMISSION HEARING PROCEDURE; PROVIDING FOR PENALTIES

Commissioner Taliaferro referred to the July 5, 1985 letter from Deputy City Attorney Judith A. Boyajian, responding to the question of "whether the Commission should continue to defer to the Police Department for enforcement of the sales space regulations set forth in Section 2405 (Ordinance 41-83)": "... the Commission may not, by deferring enforcement of certain street artist regulations to another agency that shares enforcement powers, divest itself of its responsibility to ensure that all the regulations governing street artists are enforced." Commissioner Taliaferro stated that the non-debatable issue before his Committee was that all of the laws would be enforced by the Commission, and that, based upon instruction by the City Attorney, the Committee would be making two recommendations: adding a list of violations of space regulations to the Commission's list of violations subject to penalties; and recommending penalties for the space regulation violations.

The Commissioner went on to say that his Committee envisioned the Art Inspector patrolling the street artist areas with the Police, with an eye to enforcing all the regulations. If an artist were to be "cited" by the Art Inspector, the artist would have to appear before the Arts Commission (as is presently done), facing the possibility of suspension or revocation of certificate. If the artist were to receive a citation from a Police officer, and if it constituted a multiple infraction, the District Attorney would consider the case on a misdemeanor basis, the artist facing the possiblity of going before a Municipal Court judge. Now, with the recent clarification of the City Attorney, the Art Inspector will not only look for the craft violations but for all violations of the street artist ordinance, and so will the Police.

Commissioner Hanson moved that the Arts Commission amend its Hearing Procedure of Street Artist Violations; Penalties for Violations by adding the following to its list of violations subject to penalties, relevant to Part III, Section 24 of the San Francisco Municipal Code and Ordinance 41-83, Section 2404, 2405, and 2406 (street artist regulations):

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" 10) Conducting business in a disorderly, improper or or hazardous manner.

" 11) Selling, offering for sale, or soliciting offers to purchase in areas not designated by the Board of Supervisors.

" 12) Selling, offering for sale, or soliciting offers to purchase in areas designated by the Board of Supervisors, not under the jurisdiction of an officer, board, or commission of the City and County:

a) More than four and one-half (4-½) feet from the curb line of any sidewalk.

b) Within eighteen (18) inches of the curb line of any sidewalk.

c) More than five (5) feet above any sidewalk.

d) In an area more than four (4) feet long.

e) Within seven and one-half (7-½) feet of a sprinkler inlet or standpipe inlet (both wet and dry), measured from the outer edge of a standpipe bank from the building line to the sidewalk edge.

f) Within twelve (12) feet from the outer edge of any entrance to any building including, but not limited to, doors, driveways, emergency exits measured in each direction parallel to the building line and thence at a 90-degree angle to the curb.

g) Obstructing a fire escape underneath and perpendicular from building to the street within five (5) feet from an end of the fire escape.

h) On any sidewalk adjacent to a curb which has been duly designated pursuant to local ordinance or regulation as one of the following: white zone; yellow zone; or bus zone.

i) Within five (5) feet of any crosswalk.

j) Within five (5) feet of any inflammable liquid vent or fill pipe, in either direction of the sidewalk when tanks are not being filled or within twenty-five (25) feet while tank is being filled.

k) Within five (5) feet of the display of any other Street Artist.

l) Within five (5) feet of a fire hydrant.

m) Selling, offering for sale, or soliciting offers to purchase between the hours of 12:00 a.m.

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(midnight) and 6:00 a.m. of the following day.

n) Failure to remove display and objects in an area designated by the Board of Supervisors by 12:00 a.m. (midnight); placement of display or objects in said area prior to 6:00 a.m. of the following day.

o) Selling, offering for sale, or soliciting offers to purchase from any vehicle.

p) Failure to maintain for the passage of pedestrians a space of at least ten (10) feet in width, as measured on a line perpendicular to the curb line, between the edge of the sidewalk farthest from the curb and the edge of the Street Artists' activities. No portion of a street artist's activities shall be included in measuring the ten (10) foot clear pedestrian passageway. Not withstanding the foregoing, the Board of Supervisors, by resolution, may temporarily permit Street Artists to engage in their activities in specified locations where ten (10) feet of clear pedestrian passageway cannot be maintained. Such temporary permission may not be granted by the Board of Supervisors for any period exceeding eighteen months.

" 13) Selling, offering for sale, or soliciting offers to purchase goods and crafts in those areas subject to the lottery without first obtaining a document from the Arts Commission indicating the seller has been chosen for the area or a document from the Arts Commission indicating that no lottery document is necessary for that area.

" 14) Selling, offering for sale, or soliciting offers to purchase any art or craft work without displaying Certification Card. "

The motion was seconded by Commissioner Taliaferro. Discussion ensued.

Street Artist Linda Stark, Chairperson of the Commission's Street Artist Liaison Committee on Matters of Program Budget and Personnel and President of the Street Artists Association, stated that until a permanent solution could be found to change the space size regulations and the width between setups, the artists needed time to work out the solution. The artists, she said, were basically law-abiding people. It was the loss of sales spaces that was the primary reason they found themselves in a Catch-22 situation. Pier 39 had promised to yield 40 spaces upon its completion, replacing the ones lost at the Wharf, but these never materialized. Ten spaces were lost on Leavenworth Street due to the Arts Commission's restriction of their usage exclusively for portrait artists. Furthermore, 25 viable spaces on Taylor Street are unusable due to the Longshoremen's continual rental of their parking lot to non-artist vendors. There were now too many licenseholders for the amount of available sales space.

Ms. Stark went on to say that, to her knowledge, no judge had ever prosecuted any of the street artist violation cases, that it was because the City considered it an insignificant situation.

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Ms. Stark told the Committee that the artists had had success with the Board of Supervisors in obtaining exemptions of certain regulations enabling designation of additional spaces - examples being on Stockton Street (at Post) and at BART Plaza. She was, therefore, asking the Committee to postpone the implementation of the penalty phase of this matter until the Commission and the artists could come up with proposals to obtain additional viable spaces on Beach Street. She added that they were also interested in working with the Commission and the Fisherman's Wharf merchants on parking and other problems.

Mr. Christopher Martin, President of the Fisherman's Wharf Merchants Association, stated that the wharf has 150 street artist spaces - a greater concentration of spaces than any other part of the city. He said that his association believed that the Street Artists Program could be a benefit for the city and in particular the wharf if the Program were to be run as an art program - that is, handmade items being sold on the street. His association expressed concern for years over the "squeezing" of 75 - 100 illegal spaces (between legal spaces). This, he said, made it more difficult for pedestrians to walk, while the competition of additional artists hurt the stores. His organization could live with the Program if it were run according to the laws on the books - especially the regulations governing the stands and the work being sold. Of additional concern was the parking situation, but, he said, that was out of the Commission's purview. He hoped that there would be cooperation with parking in garages. He urged the Commission to adopt the Committee recommendation, and added that his organization would like to see the Program expand to other parts of the city.

Commissioner Taliaferro asked Captain Lawrence Gray and Officer Raymond West of Central Station what the attitude of the Police would be if the Commission enforced the Police Code regulations. Captain Gray answered that the concept of the ordinance was that the people would police themselves, with little need for Police enforcement; but that, he said, has not been the case. He could not take officers off the heavy crime area to work this situation. He added that he had never found the spirit of the street artists to make the law work. He said he would increase officers in the area and have them work closely with the Commission's Art Inspector. He had asked for the Traffic Bureau to enforce the parking regulations. With regard to law enforcement, he said he had become defeatist: Beach Street has become not so beautiful due to violations of the ordinance.

Mr. Bernard Averbuch of the Greater Market Street Association told the Commissioners that there was a similar problem of enforcement downtown at Powell and Market and at Union Square. He expressed hope that the Committee and Captain Gray would give some attention to these areas as well.

Street Artist Wayne Konkright stated that just as the Longshoremen's Union had been granted to continue their rental of their lot because

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of their having done so for eight years, then, on the same basis, the street artists should be allowed to remain as is. Because there are no buildings on their side of Beach Street, there was no need for the creation of aisles between setups and therefore there was room for 70 street artists.

Street Artist Mark Monsarrat said he shared some of Mr. Martin's concerns. In the past, not all of the artists' crafts had been handmade. The artists did show cooperation when their Liaison Committee helped select the Art Inspector; Mr. Monsarrat added that they had made a good choice. The fault for the artists' non-compliance did not rest only with the artists but was due also to the Board of Permit Appeals overruling the decisions of the Arts Commission. Also, there were unlicensed peddlers and "non-profit scammers." There are less concerns for the public safety on Beach Street because the artists' side of the street is not a storefront area. The artists do not encourage jaywalking because there are ample crosswalks at both ends of the street. Berkeley, he said, has a program where there are no spaces between the displays.

Mr. Alessandro Baccari, Executive Secretary of the Fisherman's Wharf Merchants Association, told the Committee that the present situation would not have risen had there not been more people using the streets, blocking the sidewalks - vendors, musicians, street artists. If everyone could abide by the laws, eliminate the need for a policeman, and identify the legitimate craftsmen, then the other areas could be cleaned up. If nothing is done now, it can only lead to an outcry for the elimination of the Program to free the streets. The merchants were talking about closing down the Wharf to demonstrate nationally, but, Mr. Baccari said, that would not be the answer. His group was asking now that the artists make a "noble effort" to live under the rules, and then there could be a cleanup of the others acting illegally. Merchants, artists, and Commission must work as a team to make something beautiful. They must work creatively. Either the Program is saved and is given credibility or a battleground is established of which no one will benefit.

Street Artist Mark Kielty stated that part of the problem was that the Fisherman's Wharf Merchants Association was not able to differentiate between the licenseholders and those who hold no licenses. If the artists and the marchants could work as friends, they could get rid of the things bothering both sides. As a whole, he felt the Program was a "great thing."

Street Artist Michael Tugendman stated that the only reason hundereds of street artists had been able to survive is because they had operated illegally. If they stayed strinctly by the rules, they would only be able to work twice a week. The Program had to be looked at historically: the laws had been made arbitrarily - for example, the five-foot width between setups could have been two feet, and no one would have become a criminal. The artists, he said, were forced to sell illegally. The

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Arts Commission, he said, has not enforced it because it would have kept hundreds of people from making a living.

Mr. Pat Flanigan, former President of the Fisherman's Wharf Merchants Association, said that the issue was the enforcement of the laws as they were stated on the books. It was not a matter of confrontation with the artists, rather a matter of whether the laws were to be enforced as they were intended.

Commissioner Taliaferro acknowledged that Mr. Flanigan's point was the key issue before his Committee.

Street Artist Phil Lawrence told the Committee that because the artists had sold on Beach Street for eight years and, if after a certain time, a custom works, it should become law. The strict enforcement of the law did not make sense for Beach Street. The artists should take a stand that the law as written does not have to do with Beach Street.

Captain Gray said that, speaking as a citizen, he looks at Beach Street as one of the city's most beautiful streets and that its beauty should be protected. The Commission should see to that.

Street Artist Susan Shindelka stated that if the Arts Commission had not licensed so many new people, the artists would not have to squeeze. Commissioner Taliaferro responded that the law did not provide for a limit on the number of certificateholders, and that if the Commission had not decided to adopt its own self-imposed regulation - its "atrition" policy - there would be 2,500 people with licenses now. The Commission, he said, had done the best it could to stretch its interpretation of the implementation of the law.

Street Artist Denise Florian stated that the artists had lost twenty prime spaces seven or eight years previously due to the construction of the Anchorage, and the spaces had never been replaced. If those spaces could be re-arranged on Beach Street, the problem would not exist. Five feet between spaces could be reduced to two feet.

Street Artist William Clark stated that he was an artist who was more than willing to comply with the rules, and that he wanted the Arts Commission, the Art Inspector, the Police and Merchants Association to know that he will not violate. He was more than happy to comply with the rules as they were; these other artists, he said, did not represent him. He did not want to see his livelihood taken from him because certain individuals have the need to continue as they are.

Street Artist Sherri Nessenson asked the Commissioners for time to work it out.

Commissioner Taliaferro said that in the beginning when the artists were on the streets, the merchants did not want them there until such time as some people stepped in, in 1972, to enact rules to legitimize the selling.

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This was why the Program was a program of the Arts Commission. Over the years, merchants and merchant organizations have been pleased with the Program's contribution to the color of the city. Merchants have helped the artists and the Commission amend the laws for the Program's benefit. From his recent contacts with street artists, the Commissioner said that what the artists and the merchants were asking for now was that all of the laws be enforced. While there may be some things that could be changed, the Arts Commission could not be asked to not enforce the law. There was no reason why the artists, merchants, and Commission could could not discuss changing some of the outmoded provisions - but that would be the next step. For now, however, notification was being given that all of the laws must be enforced by the Arts Commission.

Commissioner Hanson said she was in agreement with all of the statements at the hearing - especially the statement that the artists should police themselves - but what they were seeing at the meeting was that the wrong-doing of a few people has made for the regulations of all the people. People who did not break the law were treated as criminals. She felt that policemen should not be dealing with street artists but with serious problems. Except that the street artists had created serious problems. She asked how her Committee would handle all the cases - last year alone the Committee was overwhelmed with violation cases. Most artists were law-abiding, but there were enough artists who were not, and it had become a big problem. Even if all the artists were law-abiding, the problems they were talking about would still exist on the streets. The Commission was looking for a valid art program with spirit and the excitement of things happening spontaneously, but the Street Artists Program was getting people selling store-bought items.

Director of Cultural Affairs Claire Isaacs stated that the situation exemplified the meanings of three cliches: (1) "Two wrongs don't make a right" - the activities of the Longshoremen's lot is no excuse for street artist violations; (2) "Ignorance of the law is no excuse"; and (3) "There is the letter of the law and the spirit of the law" - the letter of the street artist law has been violated; if the spirit, or intent, of the law no longer applies to the times, we must work together to change it; in the meantime, Director Isaacs would advise the Commission that it is their responsibility to uphold the laws on the books, their sworn obligation.

The motion to amend the Hearing Procedure of Street Artist Violations was unanimously approved. The Commissioners clarified that while the additional list of violations would be subject to the Hearing Procedure's present penalties, the Commission would, as per the advice of the City Attorney, "exercise its discretion whether to suspend or revoke a street artist certificate for violation of the sales space regulations on a case-by-case basis pursuant to the Commission's powers under Police Code Section 2408." At the following month's meeting, the Program Committee would make a study of penalties with the artists and consider specific penalties for violation of the sales space regulations.

Commissioner Hanson moved that the Arts Commission request the City

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Attorney to prepare an amendment to Ordinance 41-83, Section 2410, Criminal Violations; Penalties, said amendment to provide that a violation of any provision of Ordinance 41-83 may be cited by a Police officer as either an infraction or a misdemeanor. The motion was seconded by Commissioner Taliaferro and unanimously approved.

Street Artist Mark Monsarrat submitted a proposal for a variance on Beach Street between Hyde and Larkin, exempting the five-foot width between setups requirement. He said the artists were together behind the proposal. Commissioner Taliaferro said it would be placed on the following month's agenda.

Commissioner Hanson stated that when she was appointed to the Program Committee, the Arts Commission was proposing to turn the Program over to the Police. The Commission, however, held on to it. Now there were clear indications from various City departments that they would want to get rid of the Program. The Commissioner asked the artists to spread the word through their community: if the irritations are not solved, it is entirely possible the Program could be lost.

II HEARING ON REGULATION OF CHARITABLE SOLICITORS ON PUBLIC STREETS AND SIDEWALKS

Commissioner Taliaferro said that he felt a judge had made a wrong decision in interpreting the law to allow charitable solicitors with non-profit papers to sell wherever they wish. The Police Department was challenged in its enforcement. Due to some re-thinking on the matter, there was a movement afoot to have the issue re-heard. If the ruling is to be maintained, the entire Street Artists Program could be lost. The District Attorney's office would be pursuing the subject with an eye to obtaining a new ruling.

Director Isaacs told the Committee that she had spoken to the Mayor about the subject, and that the Commission, along with other departments expressed concern over the situation hurting the Street Artists Program. She asked that the Commission go on record in support of a re-consideration of the issue.

Commissioner Hanson moved that the Commission express its support of a legal re-consideration of the street sales activities of charitable solicitors and, if such re-consideration fails to impact on the situation, request the City Attorney for regulatory legislation. The motion was seconded by Commissioner Taliaferro and unanimously approved. Mr. Ed Lawson, Executive Director of the Union Square Association, informed the Committee that the first complaints about the charitable solicitors were received by his association in May. He spoke to the City Attorney's office and to Street Artists Program Director Lazar. Nothing, he said, happened until now; the Committee's action represented the first formal step taken by any City agency as a group and his association welcomed that.

Continued.....

III REQUEST BY CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE TO APPLICANT AS FAMILY UNIT MEMBER

A. Gloria Turchi (Certificate #3032) requested priority in the issuance of a certificate to her husband as a family unit member. She stated that when she had applied for a certificate, she had believed that by just signing her name on the application her husband would be included. The lady in the Program office didn't say anything about it; Ms. Turchi had mentioned to her that they both wanted to sell. When she finally got her certificate, she was surprised to see that she was the only one who could sell at this time. Her chances of obtaining a space in the lottery were small when competing with 200 people. Her husband's presence on the street would make it possible for her to spend more time in the production of their craft: glass. Program Director Lazar asked the Committee to carefully consider that the granting of priority to Ms. Turchi's husband would "bump" the next person on the waiting list to be screened and certified at this time, and to consider what doors may be opened in terms of certificate-holders adding family unit members for whom it would be virtually impossible to find evidence of their having "applied at the same time" as the certificate-holder.

Street Artist Elizabeth Rogers told the Committee that when she was first certified as a street artist, she sold glass items and had been able to make her products and sell them on the street entirely by herself.

Commissioner Hanson moved that the request by Ms. Turchi be disapproved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

IV REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Mark Gart - Certificate #2411 expired April 21, 1985; his telephone-request for priority was received by the office on July 12, 1985. Commissioner Hanson moved that Mr. Gart's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

B. James Brady - Certificate #2954 expired May 24, 1984; he appeared at the office to request priority on July 15, 1985. Commissioner Hanson moved that Mr. Brady's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

C. Sultana Chisti - Certificate #2428 expired November 7, 1980; she appeared at the office to request priority on July 19, 1985. Ms. Chisti did not appear before the Committee. Commissioner

Continued.....

Hanson moved that Ms. Chisti's request be put over to the next Program Committee meeting. The motion was seconded by Commissioner Taliaferro and unanimously approved.

V NEW BUSINESS

Commissioner Taliaferro instructed Art Inspector Wallace Brown to not concern himself with the volume of violation cases the Program Committee may have to hear, and to enforce all of the regulations with everyone. The Commissioner added that he had received positive reports from artists, merchants, and Police about Mr. Brown's work.

Respectfully submitted:

Howard Lazar

Howard Lazar

SF ARTS COMMISSION
SF
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#1
8/28/85

THE ARTS
COMMISSION
OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, August 28, 1985
2:30 p.m.
Main Library - Civic Center
Commission - 3rd floor
Larkin and McAllister Streets
San Francisco, California

A G E N D A

I SALES SPACE PROPOSAL FOR BEACH STREET

II HEARINGS ON ALLEGED VIOLATIONS

A. Richard Ricciardi (#1035) - alleged violation (as per complaint submitted to Program): Failure to occupy a space for which the artist has signed through the lottery; allowing another artist to use the space.

B. Mitchel Rubin (#1800) - alleged violation (as per complaint submitted to Program): Violation of lottery 12:00 Noon Rule.

C. Nicole Steneck (#2858) - alleged violation (as per report submitted by Art Inspector): Failure to occupy a space for which the artist has signed; allowing another artist to use the space.

III REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sultana Chisti - Certificate #2428 expired November 7, 1980; her request for priority was received by the Program July 19, 1985. Her request put over from previous Program Committee meeting of July 23, 1985.

B. Michael Paz - Certificate #2284 expired January 18, 1982; on March 1, 1982 Mr. Paz wrote to request priority in issuance. He was scheduled to appear at March 29, 1982 Program Committee meeting, did not appear, was rescheduled for April 27, 1982 meeting, did not appear, his case held over. On May 24, 1982, Program received letter from Mr. Paz in Los Angeles, stating inability to return to San Francisco for the following three months. August 5, 1985, Program received his present request for priority.

IV REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. Katherine Wildman - On July 22, 1985, Program received her letter requesting six-month postponement of screening. (The Arts Commission on October 1, 1984, approved Ms. Wildman's request to postpone screening until June, 1985.)

V NEW BUSINESS

Dianne Feinstein
MAYOR

Claire N. Isaacs
DIRECTOR

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President

Dmitri Vedensky, Jr.
Vice President

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Jacqueline Nemerovski
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8/28/85

Civil Documents Section

THE ARTS
COMMISSION
OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

August 28, 1985
Main Library, Civic Center
Commissioners Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Taliaferro, Hanson

The meeting convened at 3:25 p.m.

I HEARINGS ON ALLEGED VIOLATIONS

A. Richard Ricciardi.

B. Mitchel Rubin. Program Director Lazar submitted a letter from Mr. Ricciardi and Mr. Rubin, received by the office that morning, in which the two artists requested an extension of their hearing date due to having received their notification of hearing recently. They requested more time to prepare their case.

It was decided to postpone the hearings of Richard Ricciardi and Mitchel Rubin to the following month.

C. Nicole Steneck. Mr. Lazar read Inspector Brown's report which stated that on July 7, 1985, Ms. Steneck failed to occupy a sales space ("B-4") for which she had signed in the lottery and allowed another artist to use the space. The report also stated that witnesses whose names were confidential told Mr. Brown that Ms. Steneck "always enters the lottery and gets a number and gives it to a street artist named Susan who is an employee of Nicole's; and this gives Susan an unfair advantage in obtaining a good selling space daily because Susan also enters the lottery herself." Attached to the report was a copy of the lottery sign up sheet for July 7, 1985, with the name "Nicole" and certificate "2858" appearing beside space marked "B-4."

Inspector Brown testified that on the morning of the lottery, a street artist identified Ms. Steneck to him: she was dressed in white pants and top and sitting on the wall for near the space for about thirty minutes. Mr. Brown said she left before he did, which was at 10:30. He returned at 1:30 and found Susan Ciochetto occupying the space.

Ms. Steneck stated that she sold that day, starting at 10:30, and that she left at 3:30.

Ed Steneck told the Committee that the sign up sheet verifies that he was set up just two spaces away from Ms. Steneck, in "B-6." He said he set up fairly early and saw Ms. Steneck putting

Continued.....

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MAYOR

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Commission

her table out at about 9:50. She left for a short while and came back at 10:30 - 10:40. She was definitely, he said, present at 2:00. He was not sure of the time when she left after 2:00. He said that he had mentioned to her that she had to occupy her space for a minimum of three hours, and that she had told him that she absolutely had occupied the space for that duration. Mr. Steneck said he would swear in court that Ms. Steneck was there for more than three hours. He added that if Mr. Brown was there when she was not it could have been because she had gone to the bathroom or been away eating.

Commissioner Hanson asked Mr. Brown if it were possible that during a portion of that day he could have missed Ms. Steneck. Mr. Brown replied that it was possible, as he had left the area at 10:30 and had not returned until 1:30.

Commissioner Taliaferro stated that his committee felt there were other witnesses involved who were not present at the meeting, and that it would be proper to put the hearing over to the next committee meeting in the hope that all witnesses would appear. He further remarked that it was coincidental that the artist should sell at the precise time the Inspector was away. Street Artist Linda Stark informed the Committee that she, too, had seen Ms. Steneck selling that day. Commissioner Hanson moved to put the hearing over to the next meeting of the Program Committee, to allow for further investigation; the motion was seconded by Commissioner Taliaferro and unanimously approved.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sultana Chisti. (Certificate #2428 had expired November 7, 1980; Ms. Chisti's request for priority was received by the Program on July 19, 1985.) Ms. Chisto told the Committee that she had been pregnant at the time her certificate expired and then had to take care of her children for the next five years until her oldest son began attending school; during that time, she had also been involved in family problems.

The Commissioners stated that they did not feel Ms. Chisti's reasons justified a five-year absence from the Program and placing her ahead of the waiting list.

Commissioner Hanson moved that Ms. Chisti's request for priority be disapproved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

B. Michael Paz. (Certificate #2284 expired January 18, 1982. On March 1, 1982, Mr. Paz wrote to request priority in issuance. He was scheduled to appear at the March 29th Program Committee meeting, did not appear, was rescheduled for the April 27th meeting, again did not appear, and his case was held over. On May 24, 1982, the Program received a letter

Continued.....

from Mr. Paz in Los Angeles, stating his inability to return to San Francisco for the next three months and that he would send another letter as soon as he moved. The Program did not hear from him again until August 5, 1985 with the submittal of his request for priority.)

Commissioner Taliaferro asked Mr. Paz why he had not appeared at at his scheduled hearings. Mr. Paz replied that he had never received the notice of hearing, that his check for renewal had been returned to him and that he had been told by the office that his street artist "career was over."

Program Director Lazar stated that there was evidence that Mr. Paz had been cognizant of his scheduled hearings and read excerpts of Mr. Paz's letters of 1982 requesting postponements.

Commissioner Hanson moved that Mr. Paz's request for priority be disapproved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

III SALES SPACE PROPOSAL FOR BEACH STREET

Commissioner Taliaferro reiterated the Commission's intent to enforce all of the street artist laws - including the "squeezing" of displays between legal spaces - until such time as the laws are changed. The Commission had said it would entertain proposals from street artists as to how those laws could be changed, including proposals dealing with changes in sales space regulations.

Mr. Ephraim Margolin, attorney for street artists, told the Committee that he and his clients intended to go to the Board pf Supervisors for a variance in order to diffuse a situation which has existed for eight years, since the building of the Anchorage. He added that the artists are not always united, and that he had dropped out because he could not, until now, represent a majority. Commissioner Taliaferro asked him if his Committee was about to hear a proposal for an increase in the number of street artists on Beach Street. Mr. Margolin replied that they were not asking for an increase on Beach Street nor on Jefferson Street. He went on to say that when people make their living by crowding in an area, and when everyone in the city is willing to live by that because there are higher priorities, it seemed to him that it would be rash and ill-considered to diminish the number of spaces in that area. Until they could reach an accommodation with Mr. Baccari and the merchants - a relationship of live and let live - he asked the Commissioners to recognize reality. In order to accommodate the valid interests of groups, he suggested that the Commission adopt an interim proposal that would permit the artists to work until the matter is resolved. His proposal provided for the same number of spaces (as now), it would not change the markings on the street, and it would permit a larger number of people selling legally.

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Street Artist Mark Monsarrat, author of the proposal, clarified that there would be no additional artists than the number presently selling. He read from his proposal: "Street artists selling on Beach Street and Jefferson Street shall be exempted from the five-foot minimum distance between displays (Section 2405,c-11), and the four-foot maximum display width (Section 2405, c-4), provided that at least one foot clearance be maintained between displays at the borders of the numbered spaces, and that no individual display may exceed six and one-half feet in width." He added that the language was very close to that used by the Board of Supervisors when it created a variance for the spaces at BART Plaza. He submitted a map of the area, held it up for everyone in the room, and clarified that his proposal pertained to Beach Street by Aquatic Park and also by The Cannery. A photo of two street artist stands pressed together was submitted by Street Artist Michael Tugendman.

Commissioner Taliaferro asked Mr. Monsarrat why the plan was suggested for Beach Street. Mr. Monsarrat replied that the requirements to insure public safety are less stringent on Beach Street, as there are no buildings or standpipes on the street artist side of the street. Commissioner Taliaferro clarified with Mr. Monsarrat that his plan also pertained to Jefferson Street, both sides, Leavenworth to Hyde and to Jones. Mr. Monsarrat added that the plan, while providing an artist with the option to share his space with another artist, allowed for those artists who prefer not to share a space.

Mr. Margolin stated that the present proposal would provide for 86 legal spaces on Beach Street (between Hyde and Larkin) - doubling the present 43 spaces.

Street Artist Linda Stark, President of the Street Artist Coalition and Chairman of the Arts Commission's Street Artist Liaison Committee, said that according to the law, anyone selling needs either a lottery document for the sales space or a document stating that no such document is needed for the space. The proposal accommodated those people sharing spaces: a card could be made up and carried by the artist to show to a policeman that the artist did not need a lottery slip since he was sharing with a person who obtained the space in the lottery. (Such a card, she said, would be valid only for the Wharf area.)

Commissioner Taliaferro asked who would determined who would share a space. Mr. Monsarrat replied that it would be up to the discretion of the legal space holder. Commissioner Taliaferro questioned the fairness of the proposal. He said he was appalled at what he heard, that it was being proposed that an artist obtaining a space in the lottery could then allow his friend to sell beside him. He thought he would be hearing a proposal that would double the number of spaces in the lottery so that an artist would not have to be buddy-buddy with another to get a space.

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Mr. Monsarrat said they also had a second plan for submittal which also allows for a one-foot distance between spaces but provides for less selling space than the first plan provides. He added that they favored the first plan because it allowed for an artist to leave his display in the care of someone else, which would curb theft.

Mr. Margolin submitted an August 16, 1985 Chronicle article in which several merchants stated that businesswise it was a great year. Mr. Margolin said that the only people who would be out of work in the Wharf area would be those artists displaced from Beach Street.

Mr. Bob Bakmaz, a Wharf merchant, asked why the present regulation stipulated five feet between displays. Commissioner Taliaferro responded that it was due to safety factors and the regulation of the numbers of artists, the right of motorists to park by meters, and the allowance for emergency vehicles. Mr. Bakmaz stated that he has a store on Beach Street and that the traffic there is "phenomenal" and also due to the lines generated by the cable car; the traffic was equal to downtown.

Mr. Johnny Jacobs, a Wharf merchant, said there would be problems getting a wheelchair through a one-foot space if a wheelchair were to come from a car parked alongside the artists' displays.

Mr. Jerry Cooper of the Wax Museum said that it sounded like the artists were proposing to put more of themselves out on the street. The sudden doubling of numbers, he said, would create a lot of problems like bringing additional numbers of cars into the area, stealing potential parking spaces from the artists' buyers and the merchants' buyers, and also increasing the artists' own competition.

Street Artist Phil Lawrence stated that they were not proposing to increase the number of artists - only to legitimize the number of artists already there.

Mr. Cooper stated that a lot of the artists inport stuff from Canada, Taiwan, and elsewhere, and that they should clean up their act and then come back and talk about more spaces.

Mr. Christopher Martin, General Manager of The Cannery, stated that the burden of enforcement of what is an art product should not be a burden on the street artists but on the Arts Commission and its Inspector. He added that the merchants have learned to live with the Program and treat it as a possible asset to the area. He had been part of a task force four years to help the Commission regulate the program; they had found people selling manufactured belt buckles and other items that were forcing legitimate artists out of business. There are still trucks coming to the Wharf early in the morning to sell buckles and beads. The point is there should be more enforcement to weed out those who should not be in the Program. Mr. Martin responded to Mr. Margolin by stating that though business is better, The Cannery still has vacant storefronts, and there is a glut of retailing. His constituents were asking to see a program work as an asset to the area and were asking

Continued.....

to see cooperation with the existing law. He said they were working with the Arts Commission for proper enforcement to upgrade the program. He said he was opposed to the artists' proposal. Rather, he said, if the Police and the Arts Commission fully enforced the present law - if trucks were gotten off the street, squeezing eliminated, and legitimate artists selling - then the merchants would consider expanding the Program. He also stated that the addition of spaces on Jefferson Street now would be more intolerable for pedestrians, as the sidewalk is narrow and the artists are not set up legitimately.

Commissioner Hanson stated that her Commission has made much progress in enforcing the work being sold - the Commission had made a decision to focus its attention on the quality of the Program and to defer to the Police to enforce the other regulations. She felt that the Commission would not be able to enforce all of the laws and at the same time put its energy into upgrading the Program. In addition, she said, the parking problem is something the Commission cannot deal with. She had heard there would be an arrangement between the artists and a garage which would certainly help the situation.

Mr. Martin said that one of his Association's recommendations is for the Commission to have three full-time inspectors. For the past two years, he said, there has not been a full-time inspector; it was Mr. Lazar filling two roles. Much ground has been lost.

Mr. Alessandro Baccari, Executive Secretary of the Fisherman's Wharf Merchants Association, stated that he felt the need for everyone to be concentrated as a team to deal with people camouflaged as non-profit artists, awarded their status by the State, who can now sell among the street artists. In addition to the non-profit peddlers, there are former certificateholders, revoked certificateholders, musicians, and others - a rash broken out at the Wharf. If the law could be enforced - granted it would be a sacrifice on the part of the artists - and it could be shown that the Arts Commission can regulate something, and if a committee were made up of artists and merchants in the hope that the law could be carried out without overtaxing the Police, he had great trust in the merchants that there would be cooperation in finding other areas in the Wharf for the artists. As a teamm they would also be able to fight the non-profit laws in Sacramento.

Captain Lawrence Gray, Central Station, S. F. P. D., stated that "squeezing" was a polite word for violation of the law. To be sure it was not a major crime; but it was a breaking of the trust of the people through their ordinance. Parking, he said, should be available to all people in the area - senior citizens, people going to lunch, customers, everyone. Again, the situation represented a breaking of a trust. He said also that Beach Street is one of the most beautiful areas in the citym and that across from it is a national park; he recommended that not only should spaces not be increased there but that there should be no selling there at all.

Street Artist Michael Tugendman stated that the reason artists were

Continued.....

selling in illegal spaces was because the Anchorage had displaced a good number of spaces. If a regulation creating one foot between setups were in existence, the artists would not be breaking the law. They were here at the meeting to change the law. He added that if they could obtain an "A" sticker from City Hall, they could park in the general area, not just on Beach Street or Jefferson Street.

Mr. Johnny Jacobs interjected that an "A" sticker would not solve the residents' problem.

Street Artist Tom Gilberti stated that the existence of T-shirt sales, Atari games, illegal builsings, parking lots with illegal commerce, and a congestion of sidewalk signs from stores are a blight on the Wharf which no one enforces. The street artists, in comparison, represent a craft show. They cannot even compete with the imported merchandise being sold from the parking lot on Taylor Street.

Commissioner Taliaferro said that the entire Program, as stated by the merchants, represented a compromise. What is faced over the years is that the artists have not adhered to all the rules put into place in order to operate the Program legally. What is faced today is a mandate from the Commission's legal representative, the City Attorney, to enforce all of the laws. The Program was under a law which all parties had participated in drafting since 1972, and there was no question but to enforce the law as it is. The way was now clear for a committee of artists, merchants, and police to unite in changing the law at the Board of Supervisors. Until that time, the law would be enforced, and all parties would be encouraged to come up with something that everyone could support which would amend the law - if that is to be their conclusion.

Mr. Margolin urged the Commissioners to consider that the mandate of the Commission is to work on obtaining spaces, in accord with the ratio of licenses and spaces. He said he did not believe in enforcing laws selectively. Commissioner Taliaferro resonded that the mandate of the Commission is to enforce all the laws, not just "squeezing" and that the only reason the Committee was concentrating on that issue today was because the artists brought it to the Committee with their proposal.

Mr. Margolin said he believed the Commission could not enforce one set of law without addressing the others. He requested the Commission's support before the Supervisors. He stated that he and his clients were willing to work with Mr. Baccari on the non-profit peddling issue - if those people who breach the law were stopped, there would be more available sales space. He suggested that the parking issue be addressed in a meeting with the Police; discount rates could be discussed. What remained bothering him was that there existed a four to one ratio of licenses to spaces, with the Arts Commission not seeking additional spaces. He stated that the Commission was not mandated to represent the merchants but mandated to represent a program of artists. He asked that their temporary proosal of space-sharing be accepted; otherwise the Commission

Continued.....

would be selectively enforcing the law (enforcing squeezing) without carrying out the mandate to find more spaces.

Captain Gray reiterated his point that there should be areas reserved just for the people, that Beach Street was one such area.

Street Artist Larry Rosenbloom read from an excerpt of Commissioner Swig's remarks at the last Commission meeting (August 5, 1985) with regard to the Arts Commission's effort to maintain jobs.

Commissioner Taliaferro said that his Commission does indeed have a mandate to operate a Street Artists Program, but the Arts Commissioners are appointed to represent all of the people of San Francisco.

Street Artist Hannelore Hayden said she did not think it was fair that the artists were checked by the Police two and three times a day for squeezing; it made her feel like a criminal. Street Artist Mary Russi said that if the merchants took the time to see what was on Beach Street, they would see that the artists' proposal does not add numbers of artists but legitimizes the number already there.

Commissioner Hanson moved that the Commission request the formation of a committee of street artists, merchants, police and others to explore solutions for the problems of street artist sales activities and street artist vehicular parking at Fisherman's Wharf, and that mutually agreed upon proposals be reported to the Program Committee at its next meeting. The motion was seconded by Commissioner Taliaferro.

Street Artist Linda Stark endorsed Commissioner Hanson's motion, but stressed that the artists were placed in a difficult situation due to the Commission's stated commencement of enforcement for September 5th. If the Commission's inspector begins enforcing the sales space regulations, most of the artists will be out of work. She asked that the resolution include an extended moratorium, as the Arts Commissioners had stated that if progress were made by the artists and merchants, the Commission would consider an extension of the moratorium.

Commissioner Hanson said that when the Commission, on August 5th, had voted to delay its enforcement for thirty days, it expected to hold its next meeting in thirty days; but now, with the holidays, the next meeting will be on September 10th. Therefore, she appended her motion as follows:"and that the commencement date of Arts Commission enforcement of sales space regulations (as per Resolution 1985-256) be extended to September 10, 1985, for the consideration of the meeting of the full Arts Commission." The motion, with this added provision, was seconded by Commissioner Taliaferro and unanimously approved.

Mr. Baccari said that at no time during the previous thirty days did anyone bother to contact the marchants that a proposal was formulated which it was hoped would be granted by the Commission. If the illegal activities were to continue over the next thirty days, there would be

Continued.....

a lack of merchants wanting to sit down with the artists on a one-to-one basis in good will. On the other hand, if everyone teamed together on many aspects, there would be other areas geographically that could be looked into.

Mr. Margolin addressed Mr. Baccari and said he would meet with him anytime and that he would bring representative artists whom the artists would select. He asked for a moratorium until they have a chance to talk.

Mr. Baccari said that if the law is carried out in the next month, they could all look at the whole package; the merchants, he said, had to see some kind of evidence of the artists' carrying out the law.

Mr. Margolin replied that if enforcement begins before they had a chance to talk, they would all see an increase in people who are not under the control of the Arts Commission; one should not do irreversible damage as a precondition for a meeting.

Commissioner Taliaferro said his Committee would take it upon themselves to instruct the staff to hold off enforcement until the meeting of the Arts Commission; he instructed the artists and the merchants to meet over the next thirty days and decide on a proposal to present to the Committee.

The meeting adjourned at 5:55 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

SF
A70.75
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9/24/85

SF Pub Comm

THE ARTS
COMMISSION
OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

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STREET ARTISTS PROGRAM COMMITTEE

Tuesday, September 24, 1985
2:00 P.m.
Main Library - Civic Center
Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco, California

A G E N D A

I RENEWAL OF REQUEST FOR TEMPORARY SALES SPACES DOWNTOWN AREA FOR CHRISTMAS SEASON, 1985

II REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING (from 8/28 agenda)

A. Katherine Wildman - On July 22, 1985, Program received her letter requesting six-month postponement of screening. (The Commission on October 1, 1984, approved Ms. Wildman's request for postponement until June, 1985.)

III HEARINGS ON ALLEGED VIOLATIONS

A. Nicole Steneck (hearing continued from 8/28 meeting) - alleged violation: failure to occupy a space for which the artist has signed, and allowing another artist to use the space.

B. Richard Ricciari - hearing to be held over due to artist's inability to be in town at date of meeting.

C. Mitchel Rubin - hearing to be held over due to artist's inability to be in town at date of hearing.

IV REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Reggie Macabasco - applied July 24, 1981, and was notified January 31, 1983 (Program received no response from him); on September 11, 1985, Mr. Macabasco informed the Program that he had never received notice from the Program and requested priority.

V REQUEST BY ARTIST FOR INTERPRETATION/CLARIFICATION OF LOTTERY "HELPER'S RULE" (Lottery Rule VI, pages 25 - 26 of Program bluebook).

VI ISSUANCE OF STREET ARTIST DOCUMENT IN LIEU OF LOTTERY SLIP FOR SPECIFIC TIME OF DAY

VII NEW BUSINESS

* * *

Dianne Feinstein
MAYOR

Claire N. Isaacs
DIRECTOR

COMMISSIONERS
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Govt - Documents

THE ARTS
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OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

September 24, 1985
Main Library - Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Hanson and Taliaferro

The meeting convened at 2:05 p.m.

I RENEWAL OF REQUEST FOR TEMPORARY SALES SPACES DOWNTOWN AREA FOR CHRISTMAS SEASON, 1985

Program Director Lazar reported that Street Artist Larry Rosenbloom (on behalf of Linda Stark, President, Street Artists Association) and he had met with Mr. Lee Dolson, General Manager, Downtown Association, for his Association's support of a renewal of the designation of temporary sales spaces in the Downtown area for the Christmas season. On behalf of the street artists, the Street Artists Association and the Program were requesting the renewal of 57 of the previous year's 72 temporary spaces. (Of the 15 spaces dropped, 4 had been made permanent at BART Plaza and 11 were now in a construction zone on Market at 3rd Street.) Temporary spaces for the Christmas season (added to the year round spaces) had been designated by the Board of Supervisors for the past three years, based upon agreement by the Arts Commission, the Downtown Association, and the Street Artists Association.

Mr. Tim Thompson of Neiman-Marcus requested that the 4 temporary spaces adjacent to his store on the Geary Street side be relocated further down from the store to allow for a projected increase in foot traffic due to construction on the opposite side of the street. He proposed that the 4 spaces be moved adjacent to the white zone. (Mr. Lazar pointed out that the Supervisors would have to exempt these spaces from the white zone regulation, as they did with the permanent spaces on Stockton Street.) Mr. Thompson also requested that 3 of the 6 temporary spaces on the Stockton Street side of his store be moved down adjacent to the adjoining Macy's. (These would have to be exempted from the doorway regulation.)

Commissioner Hanson moved that the renewal of temporary sales spaces in the Downtown area for Christmas season, 1985, be approved with the above noted modifications; the motion was seconded by Commissioner Taliaferro and unanimously approved.

Ms. Linda Stark, President of the Street Artists Association, requested that the Committee's recommendation be submitted to the full Commission at its special meeting on September 26th in order to be sent with full approval to Supervisor Nancy Walker who would be able to introduce it to the full Board on the following Monday, have it before the Public Protection Committee in October, and passed in time for the spaces to be marked in November.

Continued.....

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The Commissioners confirmed that it would be submitted to the Commission on the 26th.

Mr. Lazar reported that meetings between the artists and the Fisherman's Wharf merchants were suspended at Mr. Baccari's request due to his leave for Italy. Mr. Baccari had said he expected to return in three weeks.

II REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING (from August 28, 1985 Program Committee agenda)

A. Katherine Wildman. On July 22, 1985, the Program had received a letter from Ms. Wildman requesting a six-month postponement of screening. Previously, the Commission on October 1, 1984, had approved her request for a postponement to June, 1985. Commissioner Hanson moved that Ms. Wildman's request for postponement be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

III HEARINGS ON ALLEGED VIOLATIONS

A. Nicole Steneck (hearing continued from August 28 meeting). Alleged violation: failure to occupy a space for which the artist has signed, and allowing another artist to use the space. Mr. Lazar reported that he was unable to produce his witness and that the "occupancy rule" in its present state was virtually unenforceable because it does not specify a time-span during the day when an artist must occupy a space for three hours. For these reasons, the Program Director asked the Commissioners to consider dismissing the case. Commissioner Hanson moved that the charge of alleged violation by Nicole Steneck be dismissed; the motion was seconded by Commissioner Taliaferro and unanimously approved.

Street artist Robert Clark testified that the problem was that artists let others use their spaces, and that all an artist has to do to keep his space while he is away is to leave his display in the space until he arrives - no matter how late in the day. Street artist William Clark said he was opposed to any three-hour rule because of problems like this; he suggested that the rule be eliminated completely.

Commissioner Taliaferro asked that the "occupancy rule" be reviewed by the Street Artist Liaison Committee and that a recommendation be submitted at the next Program Committee meeting. He added that if spaces were to be unoccupied, they should revert to the lottery and not be given by artists to other artists. All artists should have an opportunity in obtaining the spaces.

Continued.....

B. Richard Ricciardi and Mitchel Rubin. Mr. Ricciardi and Mr. Rubin had sent a letter informing the Committee of their inability to appear on September 24th, due to out-of-town business, and requesting a hearing either between September 27 to October 13 or between October 30 and November 10 or after January 1. Their letter included receipts for participation in various Harvest Festivals for the season throughout California. The Commissioners ascertained that the two artists were free to sell on the streets while awaiting their hearing date. Commissioner Taliaferro directed Mr. Lazar to send them a letter scheduling them for the next Program Committee meeting - October 22 -and informing them that the Committee would, if necessary, take action on the charges against them, in their absence.

IV REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Reggie Macabasco. Mr. Lazar showed the Commissioners a list of applicants revealing that Mr. Macabasco, who had applied on July 24, 1981, was notifed on January 31, 1983, and that the Program had received no response from him. On September 11, 1985, Mr. Macabasco informed the Program that he had never received the notice and requested priority in the issuance of a certificate. Mr. Macabasco told the Committee that on September 11th he happened to be inquiring on the status of his application, that when he had applied, he had been told that it would take a long time. He said that he made miniature oil paintings. Commissioner Hanson moved that Mr. Macabasco's request for priority be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

V REQUEST BY ARTIST FOR INTERPRETATION/CLARIFICATION OF LOTTERY "HELPER'S RULE" (Lottery Rule VI, pages 25 - 26 of Program bluebook)

Street artist Robert Clark requested the Committee's confirmation on the following interpretation of the "helper's rule": if an artist were to receive a poor number in the Thursday lottery and, therefore, becomes a helper for Sunday, the artist should not be prevented from participating in the Saturday lottery; if the artist uses his Saturday number to sell on Saturday, only then should he relinquish his helpership for Sunday; if the artist chooses not to sell on Saturday, he retains his helpership right for Sunday. The Commissioners confirmed Mr. Clark's interpretation and directed Mr. Lazar to inform the Lottery Committee of the Program Committee's clarification and to direct the Committee to allow Sunday helpers into the Saturday lottery.

Both Robert and William Clark asked that the Committee also allow an artist who finds that his selected space is occupied by construction, to select another space still available in the lottery while the lottery is still in progress. The Commissioners asked that this issue be submitted to the Liaison Committee for recommendation of rule language.

Continued.....

VI ISSUANCE OF STREET ARTIST DOCUMENT IN LIEU OF LOTTERY SLIP FOR SPECIFIC TIME OF DAY

Mr. Lazar told the Committee that this was suggested by some artists who were having problems with the Police for not having a lottery slip for a space acquired after 12 noon (due to inability to find a lottery worker). The artists had asked that this matter be taken up first by the Liaison Committee for recommendations. The Commissioners directed the Liaison Committee to do so.

VII NEW BUSINESS

A. Douglas Smith - request by former certificate-holder for priority in issuance of certificate. Mr. Smith's certificate (#2674) had expired on December 9, 1982. Mr. Smith submitted his letter accompanied by letters from a family counselor and an administrator of a medical facility describing Mr. Smith's drug addiction at the time his certificate expired. The letters also supplied a copy of drug screen results on Mr. Smith, tested on September 13, 1985, and showing negative for all drugs. One of the letters stated that Mr. Smith is committed to constructive citizenship" and urged that he be given "this opportunity to meet his basic needs and achieve his goals by reinstating his license at this time." Street artist William Clark testified that Mr. Smith was one of the original artists in the Street Artists Program, in 1972. Commissioner Hanson moved that Mr. Smith's request for priority be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

B. David Levitz - request by applicant for priority in issuance. Mr. Levitz had applied October 20, 1982. He called the Program on September 18, 1985 (he had been told when he applied that it would take three years) and found out that the Program had sent him a notice on February 7, 1985 and had not received a response from him. Commissioner Hanson moved that Mr. Levitz's request for priority be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

C. Inspector's Report. Mr. Brown was asked how his job was going. He reported that one of the charitable non-profit people on Market Street was reproducing his State papers and selling them for $45 to salespeople who write in their own names. Commissioner Hanson asked Mr. Lazar to prompt the City Attorney to finish the legislation for regulating the charitable solicitors. Mr. Brown further reported that with regard to the Commission's enforcement of the sales space regulations, all except five have complied. The five protested and were cited.

Street artist Robert Clark testified that the practice of "squeezing" between legal spaces does not exist while Mr. Brown is present, and also while he is not present. Street artist William Clark told

Continued.....

the Commissioners that some artists are finding that they are actually doing better without the peer pressure to "squeeze." The public is walking the entire distance of the artists' displays on Beach Street rather than stopping at the first few displays because of the previous congestion of displays and "squeezed" displays. The ambiance of the area, he said, has much improved. He added that he felt Mr. Brown "is the perfect man for the job - he's handling it efficiently, extremely well." If Brown, he said, maintains his regular inspection pace, artists will make more money and will want to comply. Artists, he said, were afraid to lose their permits. Now that there was no more squeezing, the loss of squeezed space on Saturday was being made up for by twice the number of artists entering the Tuesday lottery for legitimate spaces.

The meeting adjourned at 3:30 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

Tuesday, October 22, 1985
2:00 p.m.

Main Library - Civic Center
Commission Room (3rd floor)
Larkin and McAllister Streets
San Francisco

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A G E N D A

I HEARINGS ON ALLEGED VIOLATIONS

A. Richard Ricciardi (#1035) - alleged violation (as per complaint submitted to Program): Failure to occupy a space for which the artist has signed through the lottery; allowing another artist to use the space.

B. Mitchel Rubin (#1800) - alleged violation (as per complaint submitted to Program): Violation of lottery 12:00 Noon Rule.

C. Frank Dong (#2464) - alleged violation (as per complaint submitted to Program): Assaulting a street artist.

II STREET ARTISTS LIAISON COMMITTEE RECOMMENDATIONS (FROM LIAISON COMMITTEE MEETING OF OCTOBER 16, 1985)

A. Amending language for "occupancy rule" providing for specific time span for three-hour occupancy.

B. Language for a proposed rule to provide for any artist who finds his/her selected space occupied by construction or other obstruction, to select another space still available in the lottery while lottery is in progress.

C. Language for a street artist document (as provided for by Section 2406(h) of Ordinance 41-83) to be issued for a space acquired after 12 noon, in lieu of a lottery slip.

III REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sonya Lake - Certificate #2778 expired September 2, 1985; Ms. Lake's renewal payment was mailed September 23rd, five days after her tenth grace period day for renewal.

B. Paul Grogan - Certificate #2987 expired September 13, 1985; his request for priority received October 1, 1985.

IV NEW BUSINESS

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STREET ARTISTS PROGRAM COMMITTEE

October 22, 1985
Main Library - Civic Center
Commission Room
Larkin and McAllister Streets
San Francisco, California

M I N U T E S

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Commissioners present: Hanson, Taliaferro

The meeting convened at 2:10 p.m.

I STREET ARTISTS LIAISON COMMITTEE RECOMMENDATIONS

Ms. Linda Stark, Chairman of the Street Artists Liaison Committee, reported the recommendations from members of her committee at the meeting of October 16th; the recommendations had been requested by the Street Artists Program Committee the previous month. The recommendations dealt with the following: (a) procedures to be implemented for the lottery's selling space "occupancy rule"; (b) conditions requiring no lottery slip, as per Section 2406(h) of Ordinance 41-83; (c) a provision for artists to exchange a space occupied by construction or other obstruction for another space in the lottery.

Relative to the "occupancy rule" procedure, Ms. Stark categorized sales spaces as "assigned" and "unassigned" spaces and described how a space, becoming vacant during the period 12 - 3 p.m., would be re-assigned with first priority given to a person with the lowest unused lottery number, then to a person with the lowest mini-lottery number, and finally, in the absence of a lottery slip, to a person who wins with the flip of a coin. She related proposed recording details to be performed by lottery workers. She also related a new proposal to have all unassigned spaces as well as assigned spaces forfeited by artists who choose not to sell to remain vacant from 11:45 a.m. to 12 noon to allow the spaces to be easily identified without having to consult the sign-up sheet (which is not always available).

Relative to conditions whereby an artist would not be required to have a lottery slip for his space, Ms. Stark listed the following: (1) Selling in an empty space before 11:45 a.m.; (2) Selling in an empty space after 3:00 p.m.; and (3) Selling all day in an unassigned space. To satisfy the requirement of Section 2406(h) of Ordinance 41-83 which provides that a document be issued for the space indicating that no lottery slip is necessary, Ms. Stark proposed that the street artist certificate itself would suffice as the "document" and, if necessary, the Arts Commission could issue a sticker to be placed on the back of the certificate, which would inform the Police that the bearer is selling under one of the three conditions.

Relative to a situation in which an artist finds that the space he selected in the lottery is occupied by construction or another

Continued.....

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obstruction, Ms. Stark reported that her committee recommended that a provision be adopted to allow such an artist to exchange the space for another while the lottery is still in process.

Street artist William Clark said that he was in full agreement with the recommendations but pointed out that the recommendations did not come as a vote from the Liaison Committee because the Committee lacked a quorum when it met. He stated also that the purpose of the Liaison Committee meeting was to find a way to prevent people from signing in for spaces and then giving them to their friends. Street artist William Kaufman objected to the occupancy procedure because it would cause problems for those artists unable to show up prior to 3:00 p.m. He said that it was also a hardship for family units. Street artist Kirk Turner said that he did not see how the procedure would stop the lottery scams. Street artist Virginia Burris answered that if an arrangement between two people for occupying spaces persisted, it could be brought to the attention to the committee. Street artist Mark Kielty said that he was one of those artists who arrive after 3:00 p.m. and stays out on the street until 8:30 or 9:00; he did not see why he would be penalized for holding his assigned space all day. Street artist Paul Grogan endorsed the proposal to have vacant spaces stay unoccupied from 11:45 a.m. to 12:00 noon as making it obvious to everyone which spaces are available. He also endorsed Ms. Stark's proposal to have the Art Inspector present to verify the spaces. The artists proposed that a lottery worker, not the Art Inspector, assign the vacant spaces at 12:00 noon and, in the absence of a lottery worker in the area, that a helper be appointed. Art Inspector Brown stated that some family unit members who get spaces in the lottery have been giving their spaces to their unit partners. Mr. Kaufman asked that an exemption be granted to family unit members.

Commissioner Hanson moved that the Street Artists Liaison Committee recommendations, as stated in the language of the notes submitted by Linda Stark, be approved and implemented on a six-month trial basis; the motion was seconded by Commissioner Taliaferro and unanimously approved. The Commissioners asked that there be inserted in the language a statement that artists should seek the designated lottery worker for the day to assign them vacant spaces. The Commissioners asked also that Program Director Lazar circulate the approved recommendations to all artists and to send a copy to the Police.

II HEARINGS ON ALLEGED VIOLATIONS

A. Richard Ricciardi (#1035) - alleged violation (as per complaint submitted by Robert Clark to Street Artists Program): Failure to occupy a space for which the artist has signed through the lottery, and allowing another artist to use the space. Mr. Ricciardi was not present; Program Director Lazar told the Committee that he had received a letter from him stating his inability to appear due to

previous business commitments, as well as enclosed signed statements by witnesses to the incident, one of the witnesses being a lottery worker for the day. Mr. Lazar further stated that he had complied with the Program Committee's directive of the previous month to notify both Mr. Ricciardi and Mr. Mitchel Rubin of their hearings of October 22nd and that, if they did not appear, the Committee would recommend the penalty for the violations of which they had been charged.

Commissioner Taliaferro stated that to continue to grant the two artists a postponement would allow them to continue to sell, and that this was the third hearing scheduled for them.

Commissioner Hanson moved that, based on the information contained in the report, Mr. Ricciardi be found in violation for failing to occupy a space for which he had signed and for allowing another artist to use the space, and that his certificate be suspended for two months. The motion was seconded by Commissioner Taliaferro and unanimously approved.

B. Mitchel Rubin (#1800) - alleged violation (as percomplaint submitted by Robert Clark, re: Mr. Rubin and Richard Ricciardi): Violation of lottery 12:00 Noon Rule. (See above section of minutes relative to Richard Ricciardi.) Commissioner Hanson moved that, based on the information contained in the report, Mr. Rubin be found in violation of the Arts Commission's lottery 12:00 Noon Rule, and that his certificate be suspended for two months. The motion was seconded by Commissioner Taliaferro and unaimously approved.

Street Artist Robert Clark informed the Committee that for the next meeting of the Street Artists Program Committee, under "New Business," he would submit a proposal to revise the Commission's Hearing Procedure dealing with an artist's response to notification of hearing and his failing to appear.

C. Frank Dong (#2464) - alleged violation (as per complaint submitted by June Richard): Assaulting a street artist. Ms. Richard did not appear; the Commissioners ascertained that she had been notified of the hearing.

Program Director Lazar informed the Committee that Ms. Richard had submitted a complaint on July 15, 1985 against Street artist Frank Dong for allegedly assaulting her on December 22, 1984. Attached to her complaint were witness statements by Street artists Jesse Rodriguez and Peter Wiley. Mr. Lazar told the Committee that he had directed Art Inspector Brown to research the case: the results were a letter by Thomas Gilberti, another statement by Jesse Rodriguez, and statements by Miran Kim and Sun-Shik Kim. Mr. Dong himself had submitted a letter. All witnesses had been notified to appear. Appearing were Mr. Kim and Mr. Dong. (Mr. Rodriguez had notified the office that he would be out of town.) The Commissioners asked Mr. Lazar to read Ms. Richard's letter, and to summarize the contents of the witness statements.

Mr. Dong told the Committee that he swore his statements in his letter

Continued.....

were true. He described how Ms. Richard had put her chair with a painting on it over the line of his space area - it extended within one-third of his space. He asked her politely to move the chair; she ignored him. He asked her again; this too she ignored. The third time, he said, he got up and this caused her painting to fall. She then knocked over his entire display. At that moment, he said, he pushed her - only one push, done in a second. A man saw this and jumped onto him to stop him from committing damage. Ms. Richard, Mr. Dong said, did not really fall down.

Under questions by Commissioners Hanson and Taliaferro, Mr. Dong stated that prior to this, Ms. Richard used to compliment him as a painter, but when he became her competitor with jewelry, she showed a dislike toward him. He sells four to five days a week. Since the incident last December, he has seen her only two or three times on the street.

Commissioner Taliaferro stated that the witness statements supported Mr. Dong's statements, though this was no excuse for physical assault. Commissioner Hanson stated that it appeared there had been mutual harrassment to an extent, and that one could not justify verbal and physical assault due to the circumstances. Commissioner Taliaferro stated that what was unknown was Ms. Richard's reasons for being upset with Mr. Dong and her reason for knowcking over his display. While it was still no excuse for Mr. Dong's violence, there was a provoked assault which could have been provoked by Ms. Richard; however, this was not known, due to Ms. Richard's absence at the hearing. Commissioner Hanson said that she felt both parties were guilty: one for provocation, the other for assault.

Street artist Robert Clark told the commissioners that Ms. Richard had told him that she had been placing a chair between her display and those of other artists to keep them from infringing on her. It was, Mr. Clark said, her reaction to the neglect of the Program from doing something about "squeezing."

Commissioner Taliaferro moved, based on Mr. Dong's statement, the witness statements, and the Committee's finding that Ms. Richard had a part in provoking the incident (by knocking over Mr. Dong's display), that, in Ms. Richard's absence at the hearing, the charge against Mr. Dong be dismissed with a stern warning to both Mr. Dong and Ms. Richard that the Committee would look severely at any future similar incident involving them. The motion was seconded by Commissioner Hanson and unanimously approved.

III REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sonya Lake - Certificate #2778 expired September 2, 1985; Ms. Lake's renewal payment was mailed September 23rd, five days after her tenth grace period day for renewal. Commissioner Hanson moved that Ms. Lake's request for priority be approved; the motion was seconded by Commissioner Taliaferro and unanimously approved.

Continued.....

B. Paul Grogan - Certificate #2987 expired September 13, 1985; his request for priority was received October 1, 1985. Program Director Lazar informed the Committee that he had received a complaint that Mr. Grogan had entered the lottery during the time his certificate was expired and had been stopped by another artist from selecting a space. Mr. Lazar showed the Commissioners the lottery sheet of October 12th which lists, as the 21st person in the drawing, "2987." Mr. Grogan told the Commissioners that he had been unaware that he could not enter a lottery with an expired certificate; he had thought that a person could not enter if their certificate was suspended or revoked. He added that he had thought he could enter also because his hearing with the Program Committee was coming up within a month. He said, under the same circumstances, he would not do it again.

Commissioner Hanson moved that Mr. Grogan's request for priority be approved, with a warning that should Mr. Grogan ever again enter a lottery with an expired certificate, the Committee would look upon such an action severely in considering any future request by Mr. Grogan for priority in issuance. The motion was seconded by Commissioner Taliaferro and unanimously approved.

C. Derek Foster - Certificate #3044 expired June 26, 1985; Mr. Foster contacted the office in October and informed the staff that during the three-month period after his certificate's expiration, when he could have appealed for priority in issuance of a new certificate, he was hospitalized at St. Francis Memorial Hospital. Mr. Foster presented to the Commissioners a document from the hospital, dated September 19, 1985. He said he was hospitalized from September 17-21st.

Commissioner Hanson moved that Mr. Foster's request for priority be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

There being no further business, the meeting adjourned at 4:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

Tuesday, November 26, 1985
2:00 p.m.
Public Health Building, Room 300 (3rd floor)
101 Grove Street (at Polk Street)
San Francisco, California

A G E N D A

I RE-HEARING ON STREET ARTIST LIAISON COMMITTEE RECOMMENDATIONS RE: PROCEDURES FOR SELLING SPACE OCCUPANCY RULE; CONDITIONS REQUIRING NO LOTTERY SLIP; PROVISION FOR ARTISTS TO EXCHANGE A SPACE OCCUPIED BY CONSTRUCTION OR OTHER OBSTRUCTION FOR ANOTHER SPACE IN THE LOTTERY (item referred back to Program Committee by Arts Commission 11/4/85)

II REQUEST BY STREET ARTIST TO AMEND HEARING PROCEDURE TO PROVIDE FOR 10-DAY PERIOD FOR ARTISTS TO RESPOND TO NOTIFICATION OF HEARING

III HEARINGS ON ALLEGED VIOLATIONS

A. Frank Dong (Certificate #2464) - alleged violation (as per complaint submitted to Program): Assaulting a street artist. (Item referred back to Program Committee by Arts Commission 11/4/85.)

B. Mitchel Rubin (Certificate #1800) - alleged violation (as per complaint submitted to Program): Violation of lottery 12:00 Noon Rule. (Artist requested re-hearing, in accord with Hearing Procedure's provision for such request when Arts Commission's decision is based upon artist's failure to appear at Program Committee hearing.)

C. Richard Ricciardi (Certificate #1035) - alleged violation (as per complaint submitted to Program): Failure to occupy a space for which the artist has signed through the lottery; allowing another artist to use the space. (Artist requested re-hearing, in accord with Hearing Procedure's provision for such request when Arts Commission's decision is based upon artist's failure to appear at Program Committee hearing.)

D. Michael MacDonald (Certificate #2231) - alleged violation (as per complaint submitted by Lottery Commitee): Lottery Rule VII, INFRINGEMENTS OF GUIDELINES, failure to attend 2 scheduled consecutive Lottery Committee meetings.

IV REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Michael Griffith - applied January 17, 1977, was notified February, 1980 to appear for screening of wares; on October 15, 1985, Mr. Griffith informed the Program office that he had moved at the time notification had been sent.

V REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. Allen Buthmann - requests postponement to June, 1986.

VI NEW BUSINESS

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SF Art Commission

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STREET ARTISTS PROGRAM COMMITTEE

November 26, 1985
Public Health Building, Room 302
101 Grove Street, San Francisco

M I N U T E S

Commissioners present: Hanson, Taliaferro

Chairman Taliaferro called the meeting to order at 2:10 p.m.

I RE-HEARING ON STREET ARTIST LIAISON COMMITTEE RECOMMENDATIONS RE: PROCEDURES FOR SALES SPACE OCCUPANCY RULE; CONDITIONS REQUIRING NO LOTTERY SLIP; PROVISION FOR ARTISTS TO EXCHANGE A SPACE OCCUPIED BY CONSTRUCTION OR OTHER OBSTRUCTION FOR ANOTHER SPACE IN THE LOTTERY (this item referred back to Program Committee by Arts Commission November 4, 1985)

The Committee heard from Street artist Mark Monsarrat, member of the Lottery Committee and the Street Artists Liaison Committee, who said that his reasons for having petitioned the Arts Commission to refer the matter back to Committee were the following: time had not been allotted for the Liaison Committee's recommendations to be submitted to all the street artists, in final form; and Mr. Monsarrat's own objection to the Committee's recommendation regarding the duration of the 12:00 Noon Rule. After a lengthy hearing with input by Linda Stark, Chairman of the Liaison Committee, and other street artists Robert and William Clark, Virginia Burris, Commissioner Hanson moved that the Liaison Committee recommendations be approved with the following amendments (as requested by Mr. Monsarrat), for a trial period of five months, that the procedures be disseminated, and that at the end of the five-month trial period the procedures be reviewed:

Amendments

Page 2 of "PROCEDURES", line 3, insert after "3:00 p.m.": "No further spaces may be assigned after the morning sign-in until 12:00 noon. During this time the space may be occupied by only the assigned street artist and no one else. If the assigned street artist vacates the space during this time, it must remain vacant (completely empty) for fifteen minutes before it is re-assigned."

Page 2, line 23, insert between the words "decides" and "not": "before noon." ("If the person decides before noon not to sell ...")

Page 4, line 8, replace the word "empty" with the words "vacant assigned." ("...(2) in a vacant assigned space after 3:00 p.m. ...")

The motion was seconded by Commissioner Taliaferro and unanimously approved.

Continued.....

Dianne Feinstein
MAYOR

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II REQUEST BY STREET ARTIST TO AMEND HEARING PROCEDURE TO PROVIDE FOR 10-DAY PERIOD FOR ARTISTS TO RESPOND TO NOTIFICATION OF HEARING

Street artist William Clark explained an excerpt of the California State Code which he had submitted to the Program. The excerpt dealt with a 15-day period given to an alleged violator to request a hearing or waive his right to a hearing, whereupon the agency involved retained the option to either find him in violation or schedule a hearing anyway. Mr. Clark asked that such a procedure be considered for incorporation in the Arts Commission's Hearing Procedure of Street Artist Violations; he said this would screen out "trivial" cases and also eliminate the possibility of "scamming" the procedures.

The Commissioners asked the Program Director to confer with the City Attorney as to the suitability of such an amendment to the Commission's Hearing Procedure, as well as a comparison between the State's procedure and the Commission's procedure. Commissioner Taliaferro said that at this time it may be in order for the Program Committee to get tougher on those cases who fail to appear for hearing.

III HEARINGS ON ALLEGED VIOLATIONS

A. Frank Dong (Certificate #2464) - alleged violation (as per complaint submitted by June Richard): assaulting a street artist (June Richard). The case was referred back to the Program Committee by the Commission on November 4, 1985, at the request of Ms. Richard who had not appeared at the scheduled hearing in October. Program Director Lazar was asked to read the Program Committee's recommendation of the previous hearing: "based on Mr. Dong's statement, witness statements, and the Committee's finding that Ms. Richard had a part in provoking the incident (by knocking over Mr. Dong's display), that, in Ms. Richard's absence at the hearing, the charge against Mr. Dong be dismissed with a stern warning to both Mr. Dong and Ms. Richard that the Committee would look severely at any future similar incident involving them."

Ms. Richard told the Committee that she had failed to appear at the hearing because she had been in the middle of her midterms and had misunderstood the date of the hearing. She heard the tape of the hearing. Mr. Dong, she said, knocked over her jewelry three times and informed her that he would continue to do it until she moved her chair. She added that Mr. Dong had been in the habit of setting up a six-foot display right up against her table. She tipped his table, some of his items fell, just like hers had; but that did not justify him hitting her. Her spine is injured. She will be taking him to court. She said that he has harrassed her since the incident in order to provoke her.

Program Director Lazar pointed out six months had elapsed since the time of the incident when the Program received Ms. Richard's report.

Mr. Dong told the Committee that he has not harrassed Ms. Richard.

Continued.....

She knocked down his entire display; "in that shock," he "gave her a push on her back." Mr. Dong stated that Ms. Richard had set a chair in his space, and twice he knocked it over "by accident." Ms. Richard disputed that it was in his space; she said the chair was set up to the perimeter of her own space.

Commissioner Taliaferro said that the Program Committee was claiming that the provocations of both Mr. Dong and Ms. Richard were in error and that under no circumstances should this occur. Furthermore, under no circumstances should anyone assault anyone. If the Committee were to hear of any further provocation by the two, the Committee would push for revocation of both certificates. He said he felt that the Committee's finding and recommendation were just.

Commissioner Hanson moved the Program Committee's finding and recommendation regarding Frank Dong be re-affirmed and re-submitted to the Commission. The motion was seconded by Commissioner Taliaferro and unanimously approved.

B. Mitchel Rubin (Certificate #1800) - alleged violation (as per complaint submitted to Program): violation of lottery 12:00 Noon Rule. On November 4, 1985, the Arts Commission by resolution approved the Program Committee's October 22nd recommendation that, based on the information contained in the report, Mr. Rubin be found in violation of the Arts Commission's lottery 12:00 Noon Rule, and that his certificate be suspended for two months. Mr. Rubin wrote to request a re-hearing, in accord with the Hearing Procedure's provision for such requests when the Commission's decision is based upon the artist's failure to appear at the Program Committee hearing. Mr. Rubin was notified to appear at the November 26th meeting. He did not appear. This was the fourth scheduled hearing; he had not appeared at the previous three hearings (though had written in advance of his inability to appear). Mr. Robert Clark, the artist who had submitted the complaint, was present. Commissioner Taliaferro moved that the Committee's finding and recommendation of October 22, 1985 be re-submitted to the Commission. The motion was seconded by Commissioner Hanson and unanimously approved.

C. Richard Ricciardi (Certificate #1035) - alleged violation (as per complaint submitted to Program): failure to occupy a space for which the artist had signed through the lottery, and allowing another artist to use the space. On November 4, 1985, the Arts Commission by resolution approved the Program Committee's October 22nd recommendation that, based on on the information contained in the report, Mr. Ricciardi be found in violation for failing to occupy a space for which he had signed and for allowing another artist to use the space, and that his certificate be suspended for two months. Mr. Ricciardi wrote to request a re-hearing, in accord with the Hearing Procedure's provision for such requests when the Commission's decision is based upon the artist's failure to appear at the Program Committee hearing. Mr. Ricciardi was notified to appear at the November 26th meeting. He

Continued.....

did not appear. This was the fourth scheduled hearing; he had not appeared at the previous three hearings (though he had written in advance of his inability to appear). Mr. Robert Clark, the artist who had submitted the complaint, was present. Commissioner Taliaferro moved that the Committee's find and recommendation of October 22, 1985 be re-submitted to the Commission. The motion was seconded by Commissioner Hanson and unanimously approved.

D. Michael MacDonald (Certificate #2231) - alleged violation (as per complaint submitted by Lottery Committee): Lottery Rule VII, INFRINGEMENTS OF GUIDELINES, failure to attend two scheduled consecutive Lottery Committee meetings. Mr. MacDonald was not present. Street artist Mark Monsarrat of the Lottery Committee stated that the Committee had asked Mr. MacDonald to step down from the Lottery Committee three months previously, and he had refused. Mr. Monsarrat said that Mr. MacDonald missed running many lotteries as well. Mr. MacDonald's term had already expired. Commissioner Hanson moved that the findings of the Lottery Committee be approved (Mr. MacDonald's failure to attend two scheduled consecutive meetings), and that Mr. MacDonald be dismissed from the Lottery Committee with prejudice toward his future service on the Committee. The motion was seconded by Commissioner Taliaferro and unanimously approved. It was clarified that should Mr. MacDonald be elected to the Lottery Committee in the future, the Commission's present action would be considered in approving or disapproving Mr. MacDonald's election to the Committee.

IV REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Michael Griffith - applied January 17, 1977; was notified February, 1980 to appear for a screening of his wares, and did not respond. On October 15, 1985, he informed the Program that he had moved at the time notification had been sent. Commissioner Hanson moved that Mr. Griffith's request for priority be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved. The Committee asked Mr. Lazar to look into the matter of having applicants signing a form which would oblige them to maintain current addresses with the Program or risk forfeiture of their opportunity for screening if they do not receive their notification.

V REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. Allen Buthmann - requested postponement to June, 1986. Commissioner Hanson moved that Mr. Buthmass's request be approved. The motion was seconded by Commissioner Taliaferro and unanimously approved.

VI NEW BUSINESS

A. Request by former certificate-holder Judy Lobree (certificate #3014) for priority in issuance of certificate. Commissioner Hanson moved that Ms. Lobree's request be approved. The motion was seconded by

Continued.....

Commissioner Taliaferro and unanimously approved.

B. Street Artist Spaces adjacent to Longshoremen's Union Lot. Street artist William Clark told the Committee that he learned that the Mayor's office is now involved in the matter and that the Mayor has asked the City Attorney to make a priority a determination as to whether it is legal for the Longshoremen's Union to continue to rent space on their parking lot to outdoor retail sales. This will affect the viability of 25 street artist spaces adjacent to the lot on Taylor Street.

C. Legislation Regulating Charitable Solicitors. Mr. Lazar informed the Committee that the City Attorney's legislative draft to regulate the charitable solicitors had been introduced by Supervisor Walker and was on its way to the Public Protection Committee in December. He urged the street artists present to appear before the Committee along with the Downtown and Fisherman's Wharf merchants who had protested the loudest about various charitable solicitation groups taking advantage of the legal loopholes to set up selling wherever they choose and with unlimited-sized displays.

D. Allowance for street artists on "official business" to be represented at the lotteries. Liaison Committee member Mark Monsarrat asked that Program Director Lazar be given the authority to grant approval for artists who have to attend street artist meetings to have their numbers put into the lottery on their behalf. Several artists attending the meeting protested this proposal. The Committee asked that this matter be submitted to the Liaison Committee for a recommendation.

The meeting adjourned at 4:10 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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Dianne Feinstein
MAYOR

Claire N. Isaacs
DIRECTOR

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Robert LaRocca
Jacqueline Nemerovski
William Paterson
Piero Patri
Peter Rodriguez
Ray Taliaferro

Ex Officio Members:

Presidents of the
Fine Arts Museums
Library Commission
Planning Commission
Recreation and Park
Commission

STREET ARTISTS PROGRAM COMMITTEE

Tuesday, January 21, 1986
2:00 p.m.
CONFERENCE ROOM
45 Hyde Street (3rd floor)
San Francisco, California

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A G E N D A

I REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Craig Cassin - Certificate #427 expired 9/22/85; request for priority in issuance of new certificate received by office 12/5/85.

B. Kye Rorie - Certificate #1366 expired 11/9/85; request for priority received (by phone) 12/2/85.

C. Adama Saunders - Certificate #3061 expired 8/8/85; request for priority received 12/30/85.

D. Tim Womack - Certificate #485 expired 9/18/80; request for priority received 12/3/85.

II REQUEST BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. John F. Carroll - requests postponement until November, 1986.

B. George Boucher - requests postponement until spring, 1987.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Michael Brady - requests to be certified as a unit member with Street Artist Malois Ritzema.

IV HEARINGS ON ALLEGED VIOLATIONS

A. Lak Lim Tan - Certificate #3052; alleged violation: conducting business in a disorderly, improper and hazardous manner (suspending items from ropes tied to public property).

B. Mark Monsarrat - Certificate #2864; alleged violations: of Ord. 41-83, Section 2405(c)(1) - display width regulation - and (c)(3) - display height regulation.

C. Larry Rosenbloom - Certificate #3047; alleged violation: display of items not of the artist's own creation.

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D. Jules Bross - Certificate #2671; alleged violation: display of items not of the artist's own creation.

V NEW BUSINESS

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2/25/86

City and County of San Francisco

Art Commission

Claire N. Isaacs
DIRECTOR

STREET ARTISTS PROGRAM COMMITTEE

Tuesday, February 25, 1986
2:00 p.m.
45 Hyde Street (third floor)
Conference Room
San Francisco, California

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A G E N D A

I REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Carmen Ezzo Lawton - requests postponement until July, 1986.

B. Ilda Cintron - requests postponement until July, 1986.

C. Connie Borter - requests postponement until July, 1986.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sue Costa - Certificate 2943 expired November 14, 1985; her request for priority was received by Program on February 6, 1986.

B. Craig Lasha - Certificate #3023 expired December 10, 1985; his telephone-request was received by Program on February 3, 1986.

III REQUEST FOR RE-HEARING

A. Lak Lim Tan (Certificate #3052) - Request for re-hearing submitted February 13, 1986, stating that Mr. Tan did receive his notice of Program Committee hearing due to his change of address; request for re-hearing to appeal Arts Commission resolution of February 3, 1986 which found him in violation for consucting business in a disorderly, improper and hazardous manner and suspended his certificate for two months. (Re-hearing to be scheduled by Program Committee for later date.)

IV REQUEST FOR CURB PAINTING AT JUSTIN HERMAN PLAZA

A. Request by Street Artist Kitt Foster for curb adjacent to Justin Herman Plaza to be painted in order to authorize the general public, including street artists, to park temporarily for the purposes of loading and unloading (request to be made by Arts Commission to Director of Public Works).

V REQUESTS BY MEMBERS OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS FOR RE-APPOINTMENT

A. Frank Baresick (term expired November 27, 1985) - crafts: painting;

CONTINUED.....

A. Frank Baresick (term expired November 27, 1985) - crafts: painting; sculpture; ceramics; cast and fabricated jewelry.

B. Ed Kyto Rhy Poskus (term expired November 27, 1985) - crafts: textiles; weaving; ceramics.

VI REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sandra Bass - applied August 27, 1985; requests to be certified as a family unit member with street artist (certificate-holder) John Bass.

VII NEW BUSINESS

* * *

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STREET ARTISTS PROGRAM COMMITTEE

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February 25, 1986
45 Hyde Street, Conference Room
San Francisco, California

M I N U T E S

Commissioners present: Hanson and Taliaferro.

Commissioner Hanson called the meeting to order at 2:17 p.m. As Commissioner Taliaferro had resigned a few weeks previously, Commissioner Hanson conducted the meeting as a committee-of-one.

I REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Carmen Ezzo Lawton - Program received her letter requesting postponement until July, 1986. Commissioner Hanson stated that she would recommend to the Commission that the request be approved.

B. Ilda Cintron - letter requesting postponement until July, 1986. Commissioner Hanson stated that she would recommend that the request be approved.

C. Connie Borter - letter requesting postponement until July, 1986. Commissioner Hanson stated that she would recommend that the request be approved.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sue Costa - Certificate #2943 had expired November 14, 1985; Mrs. Costa's request for priority had been received by the Program on February 6, 1986. Mrs. Costa stated that she had been out of the state for three and a half months and had felt sure that her certificate was up to date. She and her husband returned in the middle of January; she realized her certificate had expired. She added that she had seen several artists selling with expired certificates. Street artist and Lottery Committee member Linda Stark stated that she ran the lottery on Thursday, Mrs. Costa entered it without showing her certificate, and that the feeling of the Lottery Committee was that if the Commission were to give Mrs. Costa a new certificate, there should be a penalty with it. Commissioner Hanson questioned Mrs. Costa on the number of times she had entered the lottery without a valid certificate; Mrs. Costa replied that it had been eight times, that she is accustomed to working four or five days a week, but that she hadn't been able to work during the past ten days because of the rain. Commissioner Hanson said she would recommend that Mrs. Costa's request for priority in issuance of certificate be approved, but

Continued.....

that the certificate be issued ten days after the Commission's resolution.

B. Craig Lasha - Certificate #3023 expired December 10, 1985; Mr. Lasha's telephone-request had been received by the office on February 3, 1986. Program Director Lazar stated that the Program had received no reports of Mr. Lasha having entered the lottery after his certificate's expiration. Commissioner Hanson stated she would recommend that Mr. Lasha's request for priority be approved.

III REQUEST FOR RE-HEARING

A. Lak Lim Tan (Certificate #3052) Mr. Tan's request for a re-hearing had been submitted on February 13, 1986 and had stated that he had not received the notice of his hearing with the Program Committee because he had moved; he was therefore requesting a re-hearing to appeal the Commission's resolution of February 3, 1986 (based on the Program Committee's recommendation) which found him in violation for having conducted business in a disorderly, improper and hazardous manner and had suspended his certificate for two months. Mr. Tan stated that he had moved five times during the past one and a half years. Commissioner Hanson acknowledged that her Committee had examined the photos of alleged violation - Mr. Tan's art work suspended from ropes tied to public property (trees, trellises, posts) at Justin Herman Plaza - at the previous meeting. She noted that Mr. Tan could appeal the Commission's decision to the Board of Permit Appeals. Commissioner Hanson said that she would recommend that Mr. Tan's request for re-hearing be denied.

IV SPECIAL STREET ARTIST CERTIFICATE FOR RAY TALIAFERRO

Commissioner Hanson called for a break in the agenda and stated: "We have arrived at a unique moment in history. Present here today are some of the principal participants in a Program that began in struggle, demand, conflicting points of view, anger, conciliation, stress and counterstress ... a Program that has evolved a reluctant marriage between those elements and additional ones of accommodation, cooperation, sometimes sympathy with other viewpoints .... a Program that began in both guerrila warfare and non-violent demand has grown to achieve recognition in the legal structure and business structure of the city ... that provides the city with one of its distinctive features attractive to citizens and tourists alike ... that offers an avenue for making a living to a large number of very individualistic artists and crafts persons. The Program was born under the leadership of Commissioner Ray Taliaferro for the Art Commission. It has grown to adolescence with his guidance always present, as President of the Arts Commission or as Chair of the Street Artists Program. It now appears on the verge of a qualitative leap in its operation and attractiveness.

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This meeting is the first time in the history of the Street Artists Program that Ray Taliaferro has been neither President nor Program Chair for the Arts Commission. It is very difficult to grasp, but Commissioner Taliaferro has been liberated. His term of office expired last year, and his relief has been found. This is not our moment to say goodbye to Commissioner Taliaferro. Rather it is our time to bind him to us." Commissioner Hanson presented Commissioner Taliaferro with an 8½" x 14" Street Artist Certificate and told him: "Today you are being designated an honorary street artist of long time standing." The Certificate designated him as street artist number A-1 authorized to display and vend in designated areas the following arts and crafts: "harmonious community efforts." The Certificate was large enough to receive the signatures of President Nemerovski, Commissioner Hanson, Commission Director Isaacs, Program Director Lazar; Street Artists Association President Stark; Fisherman's Wharf Merchants Association President Martin, Treasurer Flanigan, and Executive Secretary Baccari; Downtown Merchants Association Manager Dolson; Union Square Association Director Lawson; and former Downtown Association Manager Pflueger.

Present at the meeting, signing the Certificate and congratulating the Commissioner were President Nemerovski, Director Isaacs, Street Artists Association President Stark, and Wharf Merchants Association President Martin. Ms. Stark stated that the Commissioner had always appreciated the diversity of street artist opinions and had stayed with the Program, though "it's been more than a little taxing over the years." Mr. Martin stated that his Association "really commend your efforts and the Commission's efforts as well, and thank you for the Street Artists Program and what it's become, that it's an asset for Fisherman's Wharf, and it's really through your commitment and personal dedication."

Commissioner Taliaferro expressed his appreciation for the Certificate and stated that during his term of office, the Street Artists Program was one of the projects of which he has been most proud. "It's really something to be in at the very beginning with something that's happening and then to be a participant in making it happen and making it move as smoothly as it has gone over the years. I will indeed miss my annual debate over whatever the key issue is with Ephraim Margolin. ..." He expressed joy over the unification of the merchants and the Program, recalling the time when it was the merchants who had called the Police on the artists at Union Square, which caused the creation of the Program and its evolution into "the largest Program of its kind in the nation ... the most inexpensive Program of its kind in the nation ..." truly enhancing the artistic environment of San Francisco. He went on to say: "We've had hassles - but that's the democratic process. It's the art of compromise. And the only way you can get compromise is to have opposing points of view and try to forge something in the middle. And that's what we've done. So I'm very proud of the Street Artists Program, the amount of people

Continued.....

that I've met in the Program ..." He expressed his pride in the Program's Director Howard Lazar and in Commissioner Hanson "because she's one of the few Commissioners who stuck with it. The Street Artists Program is very tough on you because you have to make decisions which are very emotional sometimes because you're depriving people of their livlihood when they violate ... and that's very tough for an artistoriented soul to handle. But I'm glad we do it. I'm glad in 1972 when I made the argument that it ought to be in the Arts Commission, not the Police Commission ... it was an artistic problem, not a Police problem. My fellow Commissioners at the time hated me for it. But we grew to accept the responsibility, and we carried it out I think very well. ... Now I know hundreds of people I would not have known. ... I'm just pleased that I had an integral role in securing their livelihood, quite frankly. And it makes me very proud as a native San Franciscan to be able to do that. ... Now that I'm no longer on the Commission, I will not feel embarrassed as I have been to walk on Beach Street on the side of the street artists. For years ... I would never walk down that side because ... the first one would see me, 'Oh hi, Mr. Taliaferro,' and then the word would go, and I'd see items go under tables, licenses go up, and the scurrying about - and I'd say I'm here causing all this discomfort, and so I'd walk on the other side of the street. So now I'm glad I'm liberated eough to walk on the" street artist side. Lastly, the Commissioner commended the last addition to the Program staff: Street Art Inspector Wallace Brown. "In all the time that I've been here I've never seen anyone first of all be accepted so totally by the street artist community, appreciated by the merchant community, while doing such a very effective and committed job. ... Whatever the mix of personality traits it took to finally put some stability into that post of Inspector, Wallace has certainly done that." The Commissioner expressed his gratitude for having served with the Program: "It will be a hole in my existence not to show up, but any time I get a little hungry for the fever of it ... I'll just walk down the hill and say hello to all my friends."

IV REQUEST FOR CURB PAINTING AT JUSTIN HERMAN PLAZA

Program Director Lazar submitted a letter-request from street artist Kitt Foster for the curb adjacent to Justin Herman Plaza to be painted in order to allow the artists (and the general public) to park temporarily for the purposes of loading and unloading. In recent years, he explained, the artists have received tickets while trying to load and unload their displays and merchandise. If approved, the request would be made by the Arts Commission to the Director of Public Works. Street artist Guy Holman stated that he had sold at the Plaza for ten years, and that such a request for curb painting should have happened ten years previously. Commissioner Hanson stated that she would recommend that the Commission submit such a request to Public Works.

Continued.....

V REQUEST BY ADVISORY COMMITTEE MEMBER FOR RE-APPOINTMENT

Program Director Lazar stated that the term of Frank Baresick, member of the Advisory Committee of Street Artists and Craftsmen Examiners, had expired on November 27, 1985, and that Mr. Baresick requested to be re-appointed. The Mayor's office had said that the Commission could submit Mr. Baresick's name without the names of two other candidates. Mr. Baresick's crafts are painting,sculpture, ceramics, cast and fabricated jewelry. The term would be for two years. Commissioner Hanson said she would recommend that his name be submitted for re-appointment.

VI REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sandra Bass - applied August 27, 1985. Mrs. Bass requested to be certified as a family unit member with her husband who already had a certificate. Commissioner Hanson asked for a justification that would warrant boosting Mrs. Bass ahead of the waiting list. Mr. John Bass stated that when he had submitted his application, he had been unclear as to what the procedure was relative to items being made and sold by himself and family unit members. He was screened very shortly after applying because he was a veteran; since his wife is not a veteran, she has to wait out the waiting list.

Street artist Michael Rogers stated that there was no longer an advantage in being a family unit, in that a family unit member who obtains a space is the only one who may sell in the space and cannot turn it over to another unit member. Street Artists Association President Linda Stark stated the fairness of the present space occupancy rules; without such rules, large family units could have more opportunity than non-unit artists in obtaining spaces for certain unit members. Furthermore, if the Program were to grant priority to applicants who would be certified as unit members, there would be fewer expressions of new crafts, less diversity, entering the Program.

Mr. Bass stated that during the last Christmas season he had been out ill for ten days. They had suffered a loss of income because his wife could not sell in his place. Mr. Rogers said that the Commission should establish a parity between the number of artists and the number of spaces, and that the Commission should secure more spaces. Ms. Stark responded that the artists and the merchants were working on the issue. She again stressed her point: in the past, there were family unit members who never sold but only entered the lotteries to obtain spaces for other members.

Commissioner Hanson noted that Mrs. Bass was already on the waiting list, and that there were insufficient grounds to grant her request, the result of which might open the door to granting innumerable

Continued.....

similar requests. The Commissioner said she would recommend denial of the request.

VII NEW BUSINESS

A. Renewal of Veterans Priority on Waiting List. Program Director Lazar informed Commissioner Hanson that the ordinance, adopted the previous year, granting priority to veterans in obtaining street artist certificates, was by its own provision scheduled to expire on March 15, 1986 unless re-authorized by the Board of Supervisors upon recommendation by the Arts Commission. Mr. Lazar reported that since the ordinance's enactment, 98 street artists had dropped out of the Program, permitting (through the Commission's atrition policy) 98 new people to be certified. Of the 98, 19 were veterans.* Commissioner Hanson noted that that was approximately one fifth or 20% of the permits issued.

Street Artists Association President Stark stated that if the veterans priority were advertized in VA hospitals, there would be a different Street Artists Program, and non-veterans would be denied access to the Program. Street artist Michael Rogers referred to the State's "Licensing by Counties" law which authorizes a "Board of Supervisors to issue to such soldier, sailor or marine without cost a license" and said that he saw this as a possible answer to the Arts Commission's issue - simply create another Program, one of veterans, which would not occupy street artist spaces but would be governed by similar regulations relative to time, size, and manner of selling.

Commissioner Hanson stated that, historically, preferential legislation was adopted to allow veterans to re-enter the social and economic structure, overcoming disadvantages; however, the idea of lifetime priorities is no more merited by veterans than by other persons. The Commissioner said she would recommend that the ordinance not be re-authorized.

The meeting adjourned at 4:10 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

* At the time of the Commission's consideration of Commissioner Hanson's recommendation, Mr. Lazar reported that he had not furnished an accurate picture: In truth, there had been 172 artists who had dropped out and 172 scheduled screenings of new people, 98 of whom showed up and/or paid for certificates; 172 scheduled new people vs. 19 veterans = 11% of the scheduled applicants.

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City and County of San Francisco

Art Commission

Claire N. Isaacs
DIRECTOR

STREET ARTISTS PROGRAM COMMITTEE

Tuesday, March 25, 1986
2:00 p.m.
Main Library - Civic Center
Commission Room (3rd floor)
Larkin and McAllister Streets
San Francisco, California

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A G E N D A

I HEARINGS ON ALLEGED VIOLATIONS

A. Mari-Ellen Rowe (Certificate #2573) - Alleged violation: Ord. 41-83, Section 2405(c)(1) and (4): display width and length regulations.

B. Marshal Brewster (Certificate #026) - Alleged violation: Ord. 41-83, Section 2405(c)(1) and (4): display width and length regulations.

C. Sherrie Tatum (Certificate #2986) - Alleged violation: Ord. 41-83, Section 2405(b): street artists shall sell only in areas designated by the Board of Supervisors.

II NEW BUSINESS

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THE ARTS
COMMISSION
OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

March 25, 1986
Main Library - Civic Center
Commission Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

The meeting convened at 2:05 p.m.

Commissioners present: Hanson and Metwally.

Commissioner Hanson introduced and welcomed Commissioner Anna Marie B. Metwally to the Street Artists Program Committee.

I HEARINGS ON ALLEGED VIOLATIONS

A. Mari-Ellen Rowe (Certificate #2573). Program Director Lazar referred to the report of Ms. Rowe's alleged violation of Ordinance 41-83, Section 2405(c)(1) and (4): display width and length regulations. Included in the report was a photograph of Ms. Rowe and her two tables, one used as a display table and the other as a work table, the combination of which allegedly exceeded the sales area dimensions of 3' width x 4' length.

Ms. Rowe told the Commissioners that she needed a work table, and that the public generally enjoys seeing street artists working on their crafts. Commissioner Hanson stated that while she took no issue with Ms. Rowe's viewpoint, the problem was with the letter of the present law. Commissioner Metwally said that it would be useful to have such additional usable space, but the law, at the present, was unclear.

Ms. Rowe referred to the Commission's decision in the Mark Monsarrat case, a case similar to hers, in which the Commission refrained from taking action against Mr. Monsarrat, accepted his agreement to cease and desist exceeding the width and height dimensions, and requested that such dimensions be reviewed promptly by the committee of merchants, artists, and Arts Commissioners. Ms. Rowe said that the same decision applied to her case would be agreeable to her, but she would prefer that the Commission call a moratorium on enforcing the dimension regulations, pending the outcome of an artists-merchants meeting scheduled for the following Tuesday.

Street Art Inspector Brown testified that Mr. Monsarrat had honored his agreement - he and other artists had cut down their displays to regulation.

Mr. Lazar offered a recommendation that the Commission maintain consistency in its decisions on violations of size regulations, that the same decision be applied to Ms. Rowe as to Mr. Monsarrat.

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Inspector Brown, in answer to Commissioner Metwally, stated that he was in accord with Mr. Lazar's recommendation, though he personally would like to see the law allow more space for the artists.

Street artist Larry Rosenbloom told the Commissioners that he felt the law was ambiguous and therefore open to the Commission's interpretation.

Commissioner Hanson moved that no action be taken against Ms. Rowe, that the Commission accept Ms. Rowe's agreement to cease and desist exceeding the width and length dimensions - Section 2405(c)(1) and (4) - and that such dimensions be taken up under prompt review by the appropriate committee of merchants, artists, and Arts Commissioners; the motion was seconded by Commissioner Metwally and unanimously approved.

B. Marshal Brewster (Certificate #026) - alleged violation: Ordinance 41-83, Section 2405(c)(1) and (4), display width and length regulations. Mr. Lazar referred to the report's photo showing Mr. Brewster's clothing display and accompanying table supporting long cloth bags.

Mr. Brewster told the Commissioners that he felt his case was different from Ms. Rowe's in that it was not his display that was questionable. His display, he said, was 30" x 4' x 4' - less than the required limits. He stated that he believed the regulations were vague and ambiguous, and that they left themselves open to arbitrary and inconsistent interpretation. He went on to say that the table supporting his bags containing T-shirts was for health reasons: if he were to store them at his feet, his continuous bending and lifting of the forty-five pound bags would aggravate his back, especially since he now has to carry his child in a pack on his back. Additionally, having the bags off the ground was better than having them on the sidewalk where the public could trip over them. Lastly, he stated that the handling of the case lacked certain procedure in that the Inspector took his picture and smirked at him without handing him a notice or slip.

Inspector Brown stated that he told Mr. Brewster that in order to maintain his setup within the proper dimensions, he could place the bags under the display.

Street artist Larry Rosenbloom said he could understand the Arts Commission wanting to pursue the size regulations issue if there were outside parties pressing the issue, but he had not heard of the merchants pursuing it.

Commissioner Metwally asked Program Director Lazar for a clarification of the history of the Commission's enforcement of the size regulations. Mr. Lazar stated that from the beginning of the Program and up to the previous summer, the Commission had primarily concentrated its enforcement of the regulations governing the arts and crafts offered for sale and had deferred to the Police to enforce the size regulations as well

Continued.....

as the other regulations (of the Police Code). Last summer, however, the City Attorney advised the Commission that it could no longer defer to the Police and that it should uphold its responsibility, along with the Police, in enforcing all of the regulations of the Street Artists Program. The Commission allowed a thirty-day moratorium on enforcing the size and location requirements and, at the request of the artists, extended it another thirty days to get the artists through the summer sales season. After that, the Commission commenced its enforcement of all the regulations, with the alleged violations of Mr. Monsarrat, Ms. Rowe, and Mr. Brewster being the first of these cases.

Commissioner Hanson stated that the law, as it was written, was not fully clear, and that to crackdown on this issue at the present time was not desirable when it appeared possible to resolve the issue.

Commissioner Metwally agreed that the law was not clear and that possibly some qualifiers could be added to the particular section, providing for additional space. The Commissioner suggested that an announcement be made that the Commission would be in the process of clarifying Section 2405(c) and pending such clarification, the section would be open to interpretation.

Inspector Brown described how, upon the Commission's enforcement of the size regulations, many artists had made great effort to cut down their displays; some had actually paid to have them re-built. At first, Mr. Brown had allowed a six-inch overage - he had felt that was reasonable. He was reported to the office for having played favorites. From then on, he enforced the regulations to the letter.

Commissioner Hanson moved that the Commission proceed within a month with measures necessary to develop a clear interpretation of the provision of Section 2405(c)(1) through (4), and that pending such clarification, the Arts Commission's enforcement of such provisions be held in abeyance; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson moved that the charge against Marshal Brewster be dismissed; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson moved that the previous motion regarding Mari-Ellen Row be rescinded, and that the charge against Ms. Rowe be dismissed; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson moved that Arts Commission decision regarding Mark Monsarrat be rescinded and that the charge against Mr. Monsarrat be dismissed; the motion was seconded by Commissioner Metwally and unanimously approved.

Inspector Brown asked for clarification on enforcement. Commissioner

Continued.....

Hanson directed him to refrain from enforcing the regulations of Section 2405(c)(1) through (4) until they are clarified, but to not refrain from enforcing the regulation pertinent to selling outside of street artist spaces and all other regulations.

C. Sherrie Tatum (Certificate #2986) - alleged violation: Ordinance 41-83, Section 2405(b): street artists shall sell only in areas designated by the Board of Supervisors. According to the report, Ms. Tatum was set up on Jefferson Street, not in a designated space.

Ms. Tatum told the Commissioners that she had not known she was cited, that she had only heard of it when notified recently for her hearing, and that because the alleged incident occurred five months previously, she could not remember specifics. She stated also that the photo in the report showed her in a street artist space - J-4 - but because there are no markings on the sidewalk of J-1 through 4, there was a strong possibility that the Inspector had been mistaken about her location. Furthermore, it is customary for artists to move out of their lottery-assigned spaces and move into better spaces during the day; her name on the morning's lottery sign-up sheet would be no verification of her breaking the law.

Mr. Brown stated that, while the street markings had been worn away, he was positive he told her he was citing her for not being in a street artist space and that she had replied, "What am I going to do - I have to make some money."

Commissioner Metwally suggested that the Inspector start issuing notices to artists at the time of the incident. Street artist Gerard Cracas asked that artists be notified as soon as possible to enable them to give their side of the story while the evidence is fresh.

Commissioner Hanson asked Mr. Brown if he had any doubt about what he saw with regard to Ms. Tatum. Mr. Brown said he had no doubt.

Commissioner Metwally moved that the Commission request the Department of Public Works to re-mark all the street artist spaces as soon as possible; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Metwally acknowledged that both Ms. Tatum and Mr. Brown were in agreement that there were no markings on the sidewalk and, in light of the fact that the incident had occurred five months previously, moved that the charge against Ms. Tatum be dismissed.

Street artist William Clark objected to the dismissal on the grounds of violation of due process because of a five-month delay and asked the Commissioners if they were going to dismiss all cases that were backlogged. Commissioner Metwally responded that the Commission has a burden to be clear about all the regulations, that the Director of the Department of Public Works has the responsibility to mark all the spaces, and that,

Continued.....

in addition, the passage of time was another factor to be considered. If this last factor were the only reason, she would not recommend dismissal.

The motion was seconded by Commissioner Hanson and unanimously approved.

II NEW BUSINESS

A. Notification Procedure and Proposal for Hearing Option Procedure. The Commissioners requested that, in the future, the Inspector serve notice directly to alleged violators at the time of making the report of the incident, and that a copy of the notice be submitted to the Program Director for review and determination as to whether the report is sufficient to warrant a hearing.

Mr. Lazar stated that the present "Report of Alleged Violation" form could be used by the Inspector immediately.

Street artist William Clark told the Commissioners that in the state's procedures, the individual is notified and given option to demand a hearing or waive his right to it. He recommended that this be part of the Street Artists Program's procedures.

Mr. Lazar said he would consult with the City Attorney's office on the advantages and compatibility of such a provision with the Program's procedures and would report his findings at the next meeting.

B. Arts Commission Endorsement of Artists-Merchants Agreement on Spaces. Street artist Larry Rosenbloom asked that a forthcoming anticipated agreement between the artists and the merchants on extra street artist spaces be calendared for endorsement on the Arts Commission's next agenda. This, he said, would facilitate a request for the spaces to the Board of Supervisors for their immediate consideration in time for summer.

Street artist William Clark objected to the proposal being submitted to the full Commission without opportunity for review by the Street Artists Liaison Committee and Street Artists Program Committee.

Mr. Lazar said he would schedule the matter for the Liaison Committee's April 9th meeting and the Program Committee's meeting at the end of April.

The meeting adjourned at 3:45 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

SF
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#2
4/22/86

SF Arts Commission

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

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Tuesday, April 22, 1986
10:00 a.m. (NOTE: TIME)
Main Library-Civic Center
Commission Room (3rd floor)
Larkin and McAllister Streets
San Francisco, California

A G E N D A

I PROPOSAL FROM STREET ARTISTS COALITION AND FISHERMAN'S WHARF MERCHANTS ASSOCIATION FOR SPACES AT FISHERMAN'S WHARF

II RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE RE: CONTINUATION OF, AND/OR AMENDMENTS TO, PROCEDURES FOR SALES SPACE OCCUPANCY RULE

(The procedures that were passed by the Liaison Committee on November 20, 1985, reviewed and amended by the Street Artists Program Committee on November 26, 1985, and approved by the Arts Commission on December 2, 1985, for a trial period of five months.)

III RECOMMENDATION FROM ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS RE: CRITERIA GUIDELINES FOR "BUTTON JEWELRY"

(The recommendation: Commercially-manufactured buttons used as jewelry must be physically altered on the face of the button or must have two or more integral parts, not counting the findings.)

IV NEW BUSINESS

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STREET ARTISTS PROGRAM COMMITTEE

April 22, 1986
Main Library - Civic Center
Commission Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Hanson, Metwally

Commissioner Metwally called the meeting to order at 10:15 a.m.

I PROPOSAL FROM STREET ARTISTS COALITION AND FISHERMAN'S WHARF MERCHANTS ASSOCIATION FOR SPACES AT FISHERMAN'S WHARF

Street artist Larry Rosenbloom told the Committee that the recently scheduled meeting between the Coalition and the Wharf Association had failed to take place due to the inability of key merchants to attend. Mr. Rosenbloom requested that an emergency meeting be scheduled in the period prior to the next Arts Commission meeting (May 5th) - an emergency meeting of the Program Committee - in order to receive the Commission's endorsement for submittal to the Board of Supervisors' Public Protection Committee on May 8th.

As the Commissioners could not accommodate an emergency Program Committee at this time, Commissioner Metwally asked that a meeting between the merchants and the artists be scheduled for April 25th; both she and Commissioner Hanson said they would be able to attend.

Mr. Rosenbloom asked that the Program Committee recommend slowing down the rate of new applicants receiving certification; this, he said, would help the artists' position in their negotiations with the merchants. Commissioner Hanson stated that the issue would be calendared for the next Committee meeting.

II RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE RE: CONTINUATION OF, AND/OR AMENDMENTS TO, PROCEDURES FOR SALES SPACE OCCUPANCY RULE

Program Director Lazar stated that he had received a copy of the written recommendations only that day. Commissioner Metwally asked that the matter be re-scheduled for the following month's meeting in order to afford an opportunity to study the recommendations.

III RECOMMENDATION FROM ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS RE: CRITERIA GUIDELINES FOR "BUTTON JEWELRY"

Mr. Lazar submitted the Advisory Committee's written recommendation: "Commercailly-manufactured buttons used as jewelry must be physically altered on the face of the button or must have two or more integral

Continued.....

parts, not counting the findings." Street artist Sally Rowley showed samples of her work to the Program Committee and described how she spent time and effort altering the back of a button (filing off the post) which constituted as much artistic application as altering the face of the button or doing other crafts, as beadcraft. Street artist Virginia Burris asked that alteration of the back of a button be allowed, provided that the artist prove he/she is doing it. Mr. Lazar recommended that it not be allowed, as it would be virtually impossible to deter the proliferation of commercially manufactured buttons that are made without posts. Commissioner Hanson stated that she felt the criteria should be stronger, that the phrase "or must have two or more integral parts" be deleted. There was discussion as to the Advisory Committee's intent and definition of "two or more integral parts" - did it mean additional beads or buttons? - and it was decided that the criteria recommendation be sent back to the Advisory Committee for further clarification/refinement. The Commissioners also asked that at least one member of the Advisory Committee be present at the Program Committee meeting to explain the criteria.

IV NEW BUSINESS

A. Meeting Time for Program Committee. The Committee decided that their meetings be held on the third Tuesday, at 4:00 p.m., of each month.

B. Proposal from Street Artist William Clark to Amend Charitable Solicitors Ordinance. Mr. Lazar described how the new size regulations governing the charitable solicitors' displays have restricted the solicitors from much of the space on Jefferson Street, and, as a result, how the solicitors have found room to set up their displays directly opposite the street artists on Beach Street, infringing on the street artist's regulation to maintain a ten-foot pedestrian passageway, possibly presenting a congestion problem this summer, and, with commercially-manufactured items offered for sale directly opposite street artist handmade items, adversely affecting the credibility of the Street Artists Program. Mr. Lazar presented Mr. Clark's proposal to remedy the problem by prohibiting the charitable solicitors from setting up "within five feet from the outer edge of any " street artist space "measured in each direction parallel to the curb line and thence at a 90 degree angle to the inner edge or building line of any sidewalk."

Mr. Clark told the Committee that this situation occurs not only on Beach Street but in other locations of street artists. He submitted his proposal as one method to alleviate the problem; there could be other ways of amending the law to accomplish the same purpose. Commissioner Hanson asked Mr. Lazar to confer with the City Attorney on ways in which the law could be amended.

The meeting adjourned at 11:12 a.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

SF
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5/20/86

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THE ARTS
COMMISSION OF SAN FRANCISCO

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DIRECTOR
Claire N. Isaacs

STREET ARTISTS PROGRAM COMMITTEE

May 20, 1986
Main Library - Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Hanson and Metwally

Commissioner Hanson called the meeting to order at 4:00 p.m.

I REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Douglas Merritt - Certificate #2668 expired December 7, 1985; Mr. Merritt mailed renewal payment on April 30, 1986. Program Director Lazar told the Committee that Mr. Merritt had telephoned him in March (within three months of his certificate's expiration) and had requested a hearing on the matter, but Mr. Lazar failed to place it on the Committee's agenda for April. Commissioner Hanson moved that Mr. Merritt's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

B. Rene del Valle - Certificate #391 expired March 4, 1986; Mr. del Valle submitted a request for priority in issuance on May 1, 1986. Commissioner Hanson moved that Mr. del Valle's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

C. Philip Zamorra - Certificate #3084 expired May 1, 1986; Mr. Zamorra submitted a request for priority in issuance on May 16, 1986. Commissioner Metwally moved that Mr. Zamorra's request be approved; the motion was seconded by Commissioner Hanson and unanimously approved.

D. Lak Lim Tan - Certificate #3052 expired April 10, 1986; Mr. Tan submitted a request for priority in issuance on May 19, 1986. Commissioner Metwally moved that Mr. Tan's request be approved; the motion was seconded by Commissioner Hanson and unanimously approved.

II REQUEST BY APPLICANT FOR ISSUANCE OF CERTIFICATE

A. Royce Vaughn - Mr. Vaughn had waited two and a half years for his screening of wares and was screened on January 28, 1986.

Continued.....

He failed however, to pay for his certificate within the allotted ten working days from the date of his screening. Mr. Lazar told the Committee that Mr. Vaughn contacted him and explained that he had had no money to pay for the certificate but now was able to do so. Mr. Lazar said that the Committee had, in the past, approved similar cases, though few in number.

The Commissioners acknowledged that, if the request were approved, a certificate could not be issued this month due to the Commission's thirty-day moratorium, and there was a question as to whether it was likely that the moratorium would be lifted in thirty days. The Commissioners also ascertained that applicants are given the rules governing issuance and renewal of certificate prior to their screening. Commissioner Metwally stated that cases like Mr. Vaughn's could occur frequently, rendering the ten-day rule meaningless. Mr. Lazar stated that, prior to the rule, many applicants were paying for their certificates weeks, sometimes months, after their screening - and this was creating problems with the Program's projected revenue and budget. Commissioner Metwally requested that the Director provide a history of the Committee's decisions on previous similar cases, the Committee's rationale for waiving the rule. Mr. Lazar said he would provide this and would inform Mr. Vaughn that the Committee could not support his request at this time.

III RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE RE: AMENDMENTS TO PROCEDURES FOR SALES SPACE OCCUPANCY RULE

(The procedures that were drafted by the Liaison Committee on November 20, 1985, reviewed and amended by the Street Artists Program Committee on November 26, 1985, and approved by the Arts Commission on December 2, 1985, for a trial period of five months.)

Street Artists Liaison Committee Chairman Linda Stark stated that her Committee had reviewed the procedures and looked for ways to strengthen them. One of their recommendations being submitted was the provision for a special lottery to assign leftover, least desirable, spaces. The precedent for this was the unofficial lottery that was held for unassigned spaces on Stockton Street, which eliminated the dangerous practice of artists racing away from the lottery at the Wharf and speeding through the Stockton Street tunnel to be the first ones at the leftover spaces. Ms. Stark read each of the proposed amendments to the occupancy procedures.

In addition, Ms. Stark offered the following amendment to the Lottery Rules: In instances when an artist is entered into a lottery twice (due to either a mistake by the Lottery helpers or due to outright attempted fraud), the artist would be allowed to retain the "worst" of his two numbers for usage in the lottery. Commissioner Metwally moved that the following provision be added to

Continued.....

the Lottery Rules: "Where a street artist's lottery number is drawn twice in a lottery, the artist will be assigned the higher of the two numbers." The motion was seconded by Commissioner Hanson and unanimously approved.

Ms. Stark also proposed that the Lottery's "helper's rule" be amended. Commissioner Hanson moved that the following provision be added to the "helper's rule": "In a three-day lottery period, if an artist is helper on a second day, the artist may enter the lottery on the first day and either use that number on the first day or retain his/her helper position for the second day; but if the artist chooses to be helper, the artist forfeits the right to use that number for any other day of that period. This applies to both helpers and Lottery Committee members." The motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Metwally moved that the recommendations of amendments to the occupancy procedures, as submitted by the Liaison Committee, be approved; the motion was seconded by Commissioner Hanson and unanimously approved.

IV PROPOSAL FOR "STREET ARTISTS FAIR"

(The Committee chose to take this item of "New Business" out of order.)

Street Artist Larry Rosenbloom of the Street Artists Coalition described how, over the years, the artists had lost three major areas of spaces at Fisherman's Wharf: the Jefferson Street spaces, due to construction; the Taylor Street spaces rendered almost useless, due to the presence of vendors renting spaces on the Longshoremen's parking lot; and the decline of the Beach Street spaces, due to the charitable solicitors selling commercially manufactured goods on Beach Street. To compensate for the Beach Street problem, Mr. Rosenbloom proposed a "street artists fair' for the summer months which, by resolution of the Board of Supervisors, would add street artist spaces along the Beach Street wall fronting Victorian Park, the spaces to be included in the lottery. The proposal also included a street artist logo, advertizing and other promotion, a banner, an information table offering discount coupon books for the crafts of various artists. Mr. Rosenbloom said that Beach Street had been the last area of the Wharf that retained a crafts ambiance; but now that area was taken over by the merchandise of the charitable solicitors. He said that his proposal would express the view that the artists are an asset to the Wharf. The proposal would also ease the "space crunch" during this time of negotiations with the merchants. He requested (a) the Arts Commission's support of Beach Street as a designated "street artist showcase" with street artist spaces

Continued.....

along the wall for July, August, and September, and (b) that any available funds of the Street Artists Program be used for promotion purposes.

Street Artist Robert Clark objected to the proposal due to its creation of a safety problem. He stated that the Supervisors, in the past, had denied usage of the wall area because of congestion problems. He further stated that Mr. Rosenbloom and his contingent were not interested in creating a quality crafts environment; they merely wanted to squeeze artists back onto the street. He asked that the matter be referred to the Liaison Committee. He added that he had faith in the merchants' ability to work with the Board of Supervisors in legislatively removing the charitable solicitors from the wall.

Street Artist William Clark stated that the best argument the Arts Commission could have in asking for the removal of the charitable solicitors is that their presence along the wall poses a safety hazard. The merchants, Supervisors, and Mayor will not allow it. Other solutions could be reached with the merchants.

Commissioner Hanson ascertained that, in the best possible case, a proposed new law that would remove the charitable groups from Beach Street, would be in effect by the end of summer; and, in the worst case, the new law could be challenged and held up indefinitely. She asked what would be a reasonable way to deal with the groups at the present time.

Mr. Clark responded that the street artists should pull their displays back to eighteen inches from the curb and that the artists should be encouraged to live peacefully with the groups while the Supervisors look at the situation. Mr. Clark said he looked to the strength of the merchants to motivate the Supervisors to end the practice of vendors renting spaces at the Longshoremen's lot, which would once again make the street artist spaces on Taylor Street viable.

The Program Committee adopted the following recommendation: "In order to maintain the integrity and quality of the Street Artists Program, it is necessary to distinguish arts and crafts selling from the selling of commercial goods. To this end, the Arts Commission supports the proposal by the San Francisco Street Artists Coalition to request that Beach Street be designated as the site of the "Street Artists Fair" during the summer months of 1986, with the conditions that (1) the Program present a clear identity and image of street artists with logo and informational material; (2) that any additional street artist spaces be requested for designation at a maximum of ten feet and a minimum of five feet apart; and (3) that such designation continue until such time that effective legislation and enforcement are in place for regulation of commercial vending on the streets."

Continued.....

V HEARING ON CERTIFICATION RATE OF NEW APPLICANTS

Street Artist Dennis Klein read to the Committee a prepared resolution that stated that the Commission's current policy of screening applicants at the atrition rate was not alleviating the necessity for more spaces, and requested that the moratorium on issuance of new certificates be extended another thirty days while a committee be formed to draft a plan that would ensure any artist a reasonable opportunity for obtaining a good sales space.

Commissioner Metwally acknowledged a 1977 City Attorney letter submitted by Street Artist William Clark, which stated that the Arts Commission does not have the power to limit the number of certificates. The Commissioner said that she wanted to study the document and find out whether the City Attorney had made any interpetation on the issue since 1977.

Mr. Clark requested that the moratorium be discontinued, that screening resume on a normal basis, and that a City Attorney opinion be requested as to whether any moratorium can be allowed. He further stated that if it was necessary to limit the number of certificates, it should be done the way it is supposed to be done - through the ballot.

Street Artist Larry Rosenbloom said that his organization was not asking that screening be stopped altogether; it was just that the atrition rate, they felt, was inadequate, and that the Commission should slow down the rate of screening.

Commissioner Metwally said that the Committee could check on how the PUC issues licenses for trucking - the guidelines that are used.

Commissioner Hanson asked that the Program Director set up a hearing on this issue for the next meeting. Commissioner Metwally asked that a representative of the City Attorney be present.

The Commissioners asked that a meeting of the Street Artists Liaison Committee be held to draft recommendations for the Program Committee.

The meeting adjourned at 6:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

SF
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#1
6/24/86

SF Art Commission

THE ARTS
COMMISSION
OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

June 24, 1986
Main Library - Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners Present: Hanson

Commissioner Hanson convened the meeting as a committee-of-one at 4:05 p.m.

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Dianne Feinstein

COMMISSIONERS
Jacqueline Nemerovski
President
Robert LaRocca
Vice President
Vernon Alley
Timothy Duncan
Stanley Eichelbaum
Jo Hanson
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Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

I REQUESTS BY APPLICANTS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Lily Dong. (Ms. Dong applied on April 5, 1983, and was notified for a screening of wares for October 29, 1985 but did not appear. Ms. Dong submitted a request for another appointment, which was received by the Program on June 12, 1986.) Ms. Dong told Commissioner Hanson that she had been unable to make her screening because she had been starting her senior year in high school, that her mother had called the office to inform the Program of this, and that now that she had graduated, Ms. Dong was requesting another opportunity for a permit. Commissioner Hanson said that she would recommend to the full Commission on July 7th that Ms. Dong be approved for priority above the waiting list in issuance of certificate.

B. Royce Vaughn. (matter continued from 5/20/86 Program Committee meeting) Program Director Lazar informed the Commissioner that he had been in error in reporting in the previous month's minutes that Mr. Vaughn had waited two and a half years for his screening; Mr. Vaughn had applied in January of 1986 and, as a veteran, had received priority above the waiting list for a screening and issuance of certificate. Mr. Vaughn was screened in the same month. He had failed, however, to submit payment for a certificate within the allotted ten working days from the date of his screening. Mr. Vaughn contacted the Program in May, four months later, to request opportunity to pay for his certificate. His letter stated: "The basis of this request is that of hardship. I was not physically or financially in position to get requirements in at the previously required time." As requested by the Program Committee at the previous meeting, Mr. Lazar had sent the Commissioners a memo of the history of the Committee's decisions on similar cases, the Committee's rationale for waiving the rule. There had been seven cases based on reasons, generally, of illness/hospitalization, language problems/failure to understand the requirement, child-care, choosing another job, or simply being one day late. Commissioner Hanson noted that Mr. Vaughn had not had to wait the customary two to two-and-a-half years for a screening, and that

Continued.....

a good deal of time had passed since his screening and his subsequent communication with the Program. The Commissioner stated that she would recommend that Mr. Vaughn be disapproved for priority in issuance of certificate.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Susan Frank - Certificate #137 had expired February 21, 1986; her request for priority was received by the Program on June 10, 1986, nineteen days past the three-month allowance for consideration of such cases. Ms. Frank had written that she had been very active in working for a "charitable organization that feeds and houses people who are unable to take care of themselves and who have enrolled in a rehabilitation program." Commissioner Hanson said she would recommend that Ms. Frank be approved, without regarding this as a precedent, for priority in issuance of certificate.

B. John T. Shaw - Certificate #3091 had expired May 27, 1986; his request for priority was received June 12, 1986. Commissioner Hanson said she would recommend that Mr. Shaw be approved for priority in issuance.

C. Jane Khoshefat - Certificate #2287 had expired April 24, 1986; her request was received June 19, 1986. The Commissioner said she would recommend that Ms. Khoshefat be approved for priority in issuance.

D. Eugene Feliciano - Certificate #3140 had expired May 25, 1986; his submitted payment for renewal was postmarked June 19, 1986. The Commissioner said she would recommend that Mr. Feliciano be approved for priority in issuance.

E. Richard Bryson - Certificate #3147 had expired May 25, 1986; his request was received June 23, 1986. The Commissioner said she would recommend that Mr. Bryson be approved for priority in issuance.

III REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. Kathy Wildman. Ms. Wildman had applied for a certificate on July 21, 1982, and had requested and received postponements of screening on two previous occasions. Her recent letter explained that she was still helping her grandmother in Ohio and requested a six-month postponement. Commissioner Hanson said she would recommend that Ms. Wildman be approved for postponement of screening until December, 1986.

IV REVISED RECOMMENDATION FROM ADVISORY COMMITTE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS: CRITERIA GUIDELINES FOR "BUTTON JEWELRY"

(On April 22, 1986, the Program Committee requested that a recommendation

Continued.....

from the Advisory Committee be sent back to the Advisory Committee for further clarification and refinement. On May 27th, the Advisory Committee adopted a revised recommendation for submittal to the Program Committee.) Commissioner Hanson read the revised recommendation: "Commercially manufactured buttons used as jewelry must be physically altered on the face of the button - for example, with painting, carving, collage - or they must have two or more integral parts - for example, additional buttons, beads, feathers, or metal parts - attached to the face of the perimeter of the buttons (excluding findings)." The Commissioner stated that she felt the criteria should be more demanding of effort on the part of the artist. Advisory Committee member Sherri Miller stated that her committee wanted to see the artists more involved in this craft, as they had seen buttons that had not been altered but had merely had posts added to them. The Commissioner responded that she wanted to see the committee have leeway in interpreting its criteria, in assessing an artist's input in his/her craft. She stated further that as an example of minimal input, a red button painted green would not constitute a significant alteration of the button.

Advisory Committee member Mathew Porkola referred the Commissioner to the criteria for commercially manufactured pendants in earrings as giving the committee leeway in determination: "A commercially manufactured penadant may be permissible in an earring when the pendant has been determined by the Advisory Committee to be an integral element of, and/or subordinate to, the total design of the earring." Mr. Porkola suggested that, for the "button jewelry" criteria, the term "physically altered" be replaced with "significantly and/or predominantly altered." The Commissioner agreed with this and offered a similar revision for the second part of the criteria: "... two or more integral parts ... that significantly alter the commercially manufactured button."

Street artist Larry Rosenbloom asked that implementation of the new criteria be postponeed for sixty days to allow him to sell off his stock. Commissioner Hanson said she would recommend thirty days.

The Commissioner said she would recommend that the following criteria guidelines for "button jewelry" be approved and implemented in thirty days after adoption: "Commercially manufactured buttons used as jewelry must be predominantly and/or significantly altered on the face of the button - for example, with painting, carving, collage - or they must have two or more integral parts - for example, additional buttons, beads, feathers, or metal parts - that significantly alter the commercially manufactured button."

V REQUEST FROM ADVISORY COMMITTEE FOR CLARIFICATION AS TO WHETHER THE ARTS COMMISSION HAS THE AUTHORITY TO ESTABLISH QUOTAS OF CERTIFICATE-HOLDERS FOR CATEGORIES OF CRAFTS

Program Director Lazar explained that the Advisory Committee was of the

Continued.....

opinion that quotas on crafts would help in balancing the diversity of the Program and would, in the long run, be helpful in fostering the Program's image. This opinion, he said, was shared by both the Director of the Arts Commission and himself.

Street artist Robert Clark opposed this and referred to a letter written by Deputy City Attorney Robert Kenealey, on March 31, 1977, responding to various questions Mr. Lazar had submitted at the time on behalf of the Program Committee: "... This office has previously advised the Board of Supervisors that it does not have the power to limit the number of certificates available and neither would the Arts Commission." Mr. Kenealey had then responded to a recommendation that would have limited each craft to 15% of the total number of certificates issued: "The answer would be the same. The Commission would not have the power to limit the number of certificates."

Commissioner Hanson chose to consider this issue along with another item on the agenda: HEARING ON CERTIFICATION RATE OF NEW APPLICANTS.

Mr. Lazar told the Commissioner that the certification rate issue - especially the request from some of the artists heard the previous month for a moratorium - would be considered in the City Attorney's office as soon as Deputy City Attorney Boyajian returned from vacation. Before leaving, Ms. Boyajian had advised that the Commission take no action until her office could review the matter.

Street artist Larry Rosenbloom asked that the Commission request a more recent opinion from the City Attorney on limiting the number of certificates. He asked that if the City Attorney would allow it, the Commission slow down its screenings of applicants. He added that if there was logic to screening newcomers based on atrition (certificate-holders relinquishing their certificates), it was just as logical to screen newcomers based on available selling space. He asked that the Program Committee state this in principle at this time and then request legal clarification.

Commissioner Hanson said she could not comply with the request at this time; and that clarification would be sought on how the Commission could legally accomplish what it wished to do administratively. She asked if there was anyone present who objected to the principle of reducing the number of certificates if it became clear that there would not be a significant number of spaces for the artists.

Street artist William Clark stated that he preferred to see a more meaningful screening procedure which would include visits to workshops of the applicants. This would not only physically limit the number of applicants who could be screened but would also provide screening on a more regular basis so that applicants would have a better idea of when they would be screened.

Commissioner Hanson asked that a hearing on limiting the number of certificates be scheduled for the next Program Committee meeting. She adjourned the meeting at 5:05 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

STREET ARTISTS PROGRAM COMMITTEE

JUNE 24, 1986 MEETING: RECOMMENDATIONS

Commissioner Hanson held the meeting as a committee-of-one and will submit the following as recommendations to the full Arts Commission on July 7th (under Committee Report):

1) RECOMMENDED that applicant Lily Dong be approved for priority above the waiting list in issuance of certificate.

2) RECOMMENDED that applicant Royce Vaughn be disapproved for priority above the waiting list in issuance of certificate.

3) RECOMMENDED that former certificate-holder Susan Frank be approved (without regarding this action as a precedent) for priority in issuance of certificate.

4) RECOMMENDED that former certificate-holders John T. Shaw, Jane Khoshefat, Eugene Feliciano, and Richard Bryson be approved for priority in issuance of certificate.

5) RECOMMENDED that applicant Kathy Wildman be approved for postponement of screening until December, 1986.

6) RECOMMENDED that the following criteria guidelines for the craft "button jewelry" be approved and implemented in thirty (30) days after adoption: "Commercially manufactured buttons used as jewelry must be predominantly and/or significantly altered on the face of the button - for example, with painting, carving, collage - or they must have two or more integral parts - for example, additional buttons, beads, feathers, or metal parts - that significantly alter the commercially manufactured button."

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STREET ARTISTS PROGRAM COMMITTEE

July 29, 1986
Main Library - Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

The meeting was called to order at 3:00 p.m.

Commissioners present: Hanson, Metwally.

I REQUESTS BY APPLICANTS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Ronda Bonati - applied April 28, 1983, was notifed by the Program in September, 1985, for a screening of her wares, but had moved and did not receive the notice. Commissioner Hanson moved that Ms. Bonati's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

B. Duane Teeter - applied July 5, 1983, was notified in January, 1986, for a screening, but had moved and did not receive the notice. (His notice was returned to the Program on January 29th.) Commissioner Hanson moved that Mr. Teeter's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

II REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Peter Bent - Certificate #3098 expired June 24, 1986; Mr. Bent submitted his request for priority in issuance of certificate, on July 14, 1986. Commissioner Hanson moved that Mr. Bent's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

III REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. Lou Kessler - applied June 21, 1983; was scheduled for screening on July 29, 1986; Mr. Kessler requested postponement of screening for one year (until July, 1987). Commissioner Hanson moved that Mr. Kessler's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

IV REQUEST BY PROGRAM DIRECTOR FOR PRIORITY HEARING ON ALLEGED VIOLATION

Program Director Lazar reported that he continued to receive reports about two certificate-holders, Gerard Pepper Cracas and Martin Butschek, allegedly violating the street artists ordinance by

Continued.....

THE ARTS COMMISSION OF SAN FRANCISCO
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415 558 3463

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pushing their displays together and thereby exceeding the size regulations. The Art Inspector had issued a notice of alleged violation to Mr. Butschek. According to reports from the Inspector and from various artists, the two certificate-holders were continuing the violation through the summer. Mr. Lazar asked the Commissioners to allow him to move the case up from the backlog and to submit it for a hearing at the next Committee meeting. Commissioner Hanson moved that the Director's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

V TIME LIMITS FOR TESTIMONY IN HEARINGS ON ISSUES AND ALLEGED VIOLATIONS

Commissioner Metwally stated that she had requested that this matter be placed on the agenda, and that she felt it was possible for a person to make an argument in two to three minutes, and that she was therefore requesting, in the interest of efficiency, that the Committee adopt a policy of limiting each person to two to three minutes for comment, and that issues and items be listed with approximate times on the agenda. (The listing of times would benefit individuals who wanted to attend only for particular issues and not for an entire meeting.) Program Director Lazar stated that the City Attorney's office had clarified that the Committee could, like the Board of Permit Appeals, set such time limits and had recommended that it also allow for expanded time on issues or testimony whenever the Committee would feel it appropriate. Commissioner Hanson moved that the Program Committee follow a procedure whereby the times of issues and matters be posted on each agenda and that speakers be allotted two minutes for comments, provided that the Committee, at its discretion, may increase the allotted time where there is just cause; the motion was seconded by Commissioner Metwally and unanimously approved.

VI HEARINGS ON ALLEGED VIOLATIONS

A. Sherry Schulte - Certificate #3019. Mr. Lazar stated that Ms. Schulte and her display were photographed on November 15, 1985, for displaying items not of the artist's own creation. The Committee examined the photos showing pendant-style jewelry which, Mr. Lazar stated, were commercially manufactured and not allowed. Inspector Brown testified that the items in the photos he took were commercially manufactured. Ms. Schulte was not present. Commissioner Hanson moved that Ms. Schulte be found in violation for displaying items not of the artist's own creation; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson noted that, due to the backlog of cases and priority issues with which the Program had been involved, Ms. Schulte's case had not been heard until eight months after the alleged violation. Under normal circumstances, the Commissioner said, a case would be heard at the next meeting following the violation, that the hearing procedure - from Committee level through Board of Permit Appeals level -

Continued.....

would normally involve six weeks, and that if a suspension were given to the artist, it would occur right after that amount of time. In applying this reasoning to Ms. Schulte's case, both Commissioners Hanson and Metwally felt that optimally the case would have been heard by Committee last November, a decision would have been passed by the Commission in December, and - allowing for an appeal before the Board of Permit Appeals and the Board upholding the department - the suspension would have begun in January. Commissioner Hanson moved that the two-month suspension of Ms. Schulte's certificate be deferred until January 1, 1987; the motion was seconded by Commissioner Metwally and unanimously approved.

B. Michael Tugendman - Certificate #1323. Mr. Lazar submitted the Inspector's report and photograph of Mr. Tugendman's display on December 19, 1985, and related that, on that date, the Inspector noted that Mr. Tugendman was selling allegedly in a location not designated for street artists, on Market Street near Montgomery, specifically between street artist spaces "M 51" and "M 52". Inspector Brown testified that Mr. Tugendman was set up about fifteen feet away from "M 51", close to where the non-profit solicitors set up.

Mr. Tugendman told the Committee that he was not notified that he had been cited, and that too much time had gone by for him to recall his witnesses and prepare a case. Mr. Brown told the Committee that he told Mr. Tugendman at the time that he was citing him for not being in a legal space, and that Mr. Brown then took a picture of Mr. Tugendman's display and Joseph Russo's and Rene Lepre's - as they were all lined up in a row between "M 51" and "M 52." The Committee noted Mr. Tugendman's location on the map attached to the Inspector's report. Mr. Brown added that the adjacent street artist spaces were clearly marked at the time and were occupied by street artists.

At this point, Commissioner Hanson asked Ms. Renee Lepre if she had been notified after the Inspector had photographed her alleged violation. Ms. Lepre said that she had not been notified, and that seven months was too long of a time for her to adequately recall the incident and prepare her case.

Commissioner Hanson asked Mr. Russo about his alleged violation on the same day. Mr. Russo stated that the penalties for such violations were not published. Mr. Lazar clarified that such violations had not been included in the Commission's published hearing procedure and penalties of the year before because the Commission had not been enforcing the space regulations until so directed by the City Attorney just a few months before Mr. Russo's, Ms. Lepre's, and Mr. Tugendman's alleged violations. Upon the City Attorney's directive, the Commission had elected to amend its hearing procedure (last August) by adding violations of the space regulations to its list of violations.

Commissioner Metwally noted that, a few months previously, the Com-

Continued.....

mittee had corrected the notification problem by directing the Inspector to issue a notice to the artist at the time of the incident and submit a carbon copy of the notice to the Director.

Commissioner Hanson stated that she was satisfied that the Inspector had notified the three artists verbally of their violations, and that the three had had as much opportunity to prepare a defense just as if they had received written notice at the time. The Commissioner moved that Mr. Tugendman, Ms. Lepre, and Mr. Russo be found in violation for selling in a location not designated for street artists, and that a two-month suspension for each commence on February 1, 1987; the motion was seconded by Commissioner Metwally and unanimously approved.

Mr. Russo stated that for such violations, the Police have traditionally given $50 fines and the courts have tossed many of these cases out. Mr. Tugendman stated that the Arts Commission had gone on record as stating that it would consider such cases on a case-by-case basis and would not consider such violations as severe as, for example, that of selling items not created by the artist. He submitted a copy of the Program Committee's July 23, 1985 minutes which stated:

> ... The Commissioners clarified that while the additional list of violations would be subject to the Hearing Procedure's present penalties, the Commission would, as per the advice of the City Attorney, "exercise its discretion whether to suspend or revoke a street artist certificate for violation of the sales space regulations on a case-by-case basis pursuant to the Commission's powers under Police Code Section 2408." At the following month's meeting, the Program Committee would make a study of penalties with the artists and consider specific penalties for violations of the sales space regulations.

In light of the City Attorney's advice, the Commissioners asked Program Director Lazar for a recommendation of an appropriate suspension period. Mr. Lazar stated that if this were an ongoing, continuous violation, he would recommend the two-month suspension; however, since this was a one-time occurrence for each of the three artists, he recommended a deferred two-week suspension for each.

Commissioner Hanson moved to amend her motion with regard to Mr. Tugendman, Ms. Lepre, and Mr. Russo to a two-week suspension for each, commencing February 1, 1986; the motion was seconded by Commissioner Metwally and unanimously approved.

C. Renee Lepre - Certificate #2980. (Please see the above section VI (A) Michael Tugendman. The Committee, in the course of the hearing, examined the Inspector's report and photograph taken December 19, 1985, and annotated map showing Ms. Lepre's location between spaces "M 51" and "M 52".)

Continued.....

D. Joseph Russo - Certificate #2968. (Please see the above section VI (A) Michael Tugendman. The Committee, in the course of the hearing, examined the Inspector's report and photograph taken December 19, 1985, and annotated map showing Mr. Russo's location between spaces "M 51" and "M 52.)

VII REQUEST BY APPLICANT FOR PRIORITY IN SCREENING

A. Carol Foster - applied June 10, 1986. Ms. Foster submitted a request, with her application, for a screening at the same time with her husband/family unit member Yanush Godlewski who had applied over a year earlier, February 28, 1985. According to Ms. Foster's letter, she had not realized that when her husband had applied, he should have listed her name as well - they were both used to applications for art shows upon which only one name of an art group was sufficient. Mr. Lazar stated that since the start of 1986, the Program had corrected such misunderstandings by stating explicitly on the application: "List the names of all members who wish to be certified to sell." He showed the Committee Ms. Foster's June 10, 1986 application which bore the statement, and Mr. Godlewski's February 28, 1985 application which did not. Commissioner Metwally moved that Ms. Foster's request be approved; the motion was seconded by Commissioner Hanson and unanimously approved.

VIII NEW BUSINESS

Street Artist William Clark told the Committee that the Longshoremen's parking lot case will be heard in Superior Court, Dept. 5, on August 6th, at 9:30 a.m., and that Deputy City Attorney Judd was handling it. He stated also that he had heard that both the Board of Permit Appeals and the Longshoremen's Union were not going to appeal the decision, and that Planning's Robert Passmore was ready to see that the zoning ordinance would be enforced.

Commissioner Hanson asked Mr. Lazar to call Mr. Gilford and inform him of the hearing, so that the Mayor's office could be represented. Both Commissioner Hanson and Metwally stated that there should be a coordination between the Mayor's office and the Police Department to enforce the court's action.

The meeting adjourned at 4:15 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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THE ARTS
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STREET ARTISTS PROGRAM COMMITTEE

September 4, 1986
Main Library - Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Hanson and Metwally.

Commissioner Hanson, Chair, called the meeting to order at 10:30 a.m.

I HEARINGS ON ALLEGED VIOLATIONS

A. Gerard Pepper Cracas and Martin Butschek. Program Director Lazar was asked to explain the Program's charges against the two artists. Mr. Lazar stated the two charges: (1) exceeding the display size regulations of Ordinance 41-83, Section 2405(c)(1), (3), and (4) - depth, height, length; and (2) conducting business in an improper manner (advertising misleading prices for items. He explained that the first charge had been substantially observed and noted by the Inspector; whereas the second charge was offered on behalf of a street artist witness who had submitted a detailed report to the Program and was prepared to testify before the Committee.

Mr. Lazar submitted the Program's report and photographs taken by the Inspector on December 19 and 21, 1985; March 22, May 25, June 11, June 18, and July 17, 1986. He called the Committee's attention to the Inspector's signed statement: "After taking each of the following photographs, I told both Martin Butschek and Gerard Pepper Cracas that their display was oversized and in violation, and I asked them to reduce the size to regulation. On each of these occasions they did so by removing the top sign and by pushing in the accordion-like sides." Mr. Lazar asked the Inspector, Mr. Brown, to testify to his statement and to explain how the artists, on the seven occasions, exceeded the size regulations.

Mr. Brown stated that the two had the ability to reduce the display within five minutes, that it was the top sign which increased the height and the side panels which increased the width. In addition, the display of signs and artwork attached to the sides of their chair increased the depth of the display. The display with its side panels was basically a U-shape which was able to conform to the 3' x 4' size regulation; however, the side panels could, and did, open up and increase the length of the display from 4' to 9 - 10'. The signs, he said, were clipped to the top of the display which could, and did, easily go up and down. He told the Committee that, in each of the seven instances, he took the photo, told the artists they were oversized, made them reduce the display (after waiting for them to finish with a customer) - only to find the display

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oversized the next time.

Street artist Philip O'Neil (who had submitted his report to the Program on Cracas and Butschek's oversized display and improper conduct of business) testified that, prior to the Commission's hiring of the Inspector, Cracas and Butschek had received numerous warnings from the Police. He stated that their display was oversized in height, length, and depth, that their one-foot tall signs exceeded the display height requirement, and that their signs attached to their chair exceeded the depth requirement. He further stated that the back of the display opened like an accordion and increased its length.

Chairman Hanson asked Mr. Cracas and Mr. Butschek to repond to the first charge. Mr. Cracas asked the Commissioners if they had received his and Butschek's request for a postponement; the Commissioners replied that they had, and that the request was denied. Mr. Cracas stated that the charges were complicated, and that he and Mr. Butschek had been given inadequate time to prepare their defense. He further stated that they took issue with the Committee's recently adopted policy of setting a time limit on testimony, that this could be based on bias and could limit their presentation of defense. He referred to the seven photos taken by the Inspector and proceeded to note, for each, a disparity or flaw in the Inspector's comments. He stated that the photo taken on December 19 showed that their display was in a street artist space, J-9, and not in the white zone which the Inspector had stated in his notes. He further stated that the camera angle did not show that there actually was a space between his display and Butschek. He added that he wished they had been told that the photograph would be used as a charge against them.

Mr. Cracas stated that the date was wrong for the next photo, and that it was the wrong person who had been cited. It was his display, before he and Butschek started exercising the family unit provision. He stated also that the Inspector could have taken the photo during the moratorium (August or September, 1985), not in December. At this point, Program Director Lazar asked Mr. Cracas if he acknowledged receiving the notice to all artists, handed out by the Inspector during the moratorium, that the Commission would be enforcing all of the regulations, including the size regulations. Mr. Cracas replied affirmatively.

Mr. Cracas stated that now they have reduced their display to regulation - so much so that his and Butschek's elbows touch each other. He said that in each of the noted instances, it was not a flagrant ignoring of the rules. They had tried each time to work out a solution. Some of the oversized situations, he said, utilized the sign above as shield from the glare. He further stated that part of their error resulted from a lack of realization that the photos would be used as part of citations. After they received the citation, on July 22nd, they have stayed within the legal size.

Inspector Brown told the Committee that they have stayed within regulation except for their chair whose signs and artwork still exceed the depth require-

Continued.....

ment.

Mr. Cracas stated that throughout the time they were being photographed, the artists around the corner on Leavenworth Street were all oversized, and the Inspector had to make them comply.

At this point, Street Artist Joe Beckman stated to the Committee that he wanted to know why Cracas and Butschek had been set up oversized last Sunday night. He said they were in "old J-9" (now no longer a street artist space). He also stated that it was not true that every artist had been oversized; one had been, and he has complied since.

Inspector Brown stated that the other portrait and cartoon artists who had been oversized were given warnings, and they corrected their displays. Also, he said, at the time he first spoke with Cracas and Butschek, he was not issuing written citations or notices - not until the Program Committee asked him to do so in March of 1986.

Mr. Cracas raised an issue that the citation was only in Butschek's name, that there was question as to whether he himself was cited. Mr. Brown clarified to the Committee that the citation notice was intended for both artists, that he had written Butschek's name because it had been Butschek who had obtained the space for the day. Furthermore, Cracas was in the space working at the time the citation was issued.

Commissioner Hanson stated that the reality of Cracas and Butschek's situation did not fit the reality of the regulations; and that while the Commission should undertake to re-examine the adequacy or inadequacy of the regulations, it was clear that there was a history of the two artists violating continuously and knowingly. Furthermore, she stated, it would not be possible to allow one person or one family unit to continue to violate until the regulations are changed.

Mr. Cracas asked the Committee to take into consideration their reasons and circumstances when the Committee considers a penalty for them. He asked for the Committee's tolerance and consideration.

The Commissioners asked the Program Director for a recommendation of penalty. Mr. Lazar replied that he recommended a two-month suspension of certification.

Commissioner Metwally stated that from the photographs it was clear that the artists were in violation.

Commissioner Hanson moved that both Mr. Cracas and Mr. Butschek be found in violation for exceeding the display size regulations on July 22, 1986; the motion was seconded by Commissioner Metwally and unanimously approved.

Before hearing the second charge, Commissioner Hanson requested that two routine items be considered and acted on.

Continued.....

II REQUEST BY APPLICANT FOR PRIORITY IN SCREENING

A. Alice Blandy. Ms. Blandy had applied for certification on June 9, 1983. The Program had sent her notification of a screening on November 22, 1985, but the notification was returned. Commissioner Hanson moved that Ms. Blandy's request for priority in screening be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

III REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sokai Yamada - Certifiate #3036 expired July 30, 1986. Commissioner Hanson moved that Mr. Yamada's request for priority in issuance of a certificate be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

I(A) HEARING ON ALLEGED VIOLATIONS - GERARD PEPPER CRACAS AND MARTIN BUTSCHEK (continued)

The Committee resumed its hearing of the second charge: conducting business in an improper manner. Mr. O'Neil described Cracas and Butschek's "methods" of selling their product in a "bait-and-switch manner." He stated that they do not clarify to their customers which of their products is sold for the advertised $1.87. He stated also that the product is a black and white cartoon sketch for $1.87 and that they do not display a black and white sample. He stated that they use their price structure to mislead foreign tourists; they have ruined Mr. O'Neil's business for the past five years; and that they are violating three laws of the State of California Department of Consumer Affairs. He referred the Committee to the laws contained in his report submitted to the Program on August 11th.

Program Director Lazar read the three laws which appeared in an excerpt from the State's "A Consumer's Guide to Sales Tactics": Section 1770 - " 'California law prohibits advertising goods or services with the intent of not selling them as advertised.' " Section 17500 - " 'An ad that is absolutely true but misleading is illegal. The test for whether an ad is misleading is what an average, reasonable person would assume to be true from reading the ad.' " Section 17507 - " 'If two models of the same type of item (such as two models of coffee makers) are both advertised and only one price is listed, the ad must clearly identify which model is being offered at the advertised price.' "

Mr. O'Neil stated that street artists have an obligation to tell people what their price is; if they do not, they abuse their privileges as a street artist.

Street Artist Kirk Turner stated that much of the hearing was based

Continued.....

on charges brought in by one of their competitors, and that a lot of time was being spent "putting them down rather than bringing up facts."

Mr. Butschek submitted photographs of his and Cracas' competitors charging the same $1.87 price for their sketches - in particular, Philip O'Neil and Keith Donube.

Mr. O'Neil stated that the $1.87 was started by Cracas; the other artists had to adopt the same price in order to compete.

Mr. Cracas and Mr. Butschek set up a VCR and monitor and showed the Committee a video presentation of their display, including the chair, the signs, and samples of their work. There were advertising signs that indicated "1.87 + tax, $1.00 more for color."

At this point, the Committee had to adjourn the meeting due to the allotted time for use of the Library's Lurie Room. The Commissioners stated that the hearing, as well as the hearings on alleged violations by Douglas Lepre and Dennis Klein scheduled for September 4th, would be continued to the next meeting of the Committee.

Commissioner Hanson adjourned the meeting at 12:00 noon.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

October 28, 1986
Main Library, Civic Center - Lurie Room
Larkin and McAllister Streets
San Francisco, California

M I N U T E S

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

Commissioner Hanson, Chair, called the meeting to order at 3:00 p.m.

Commissioners present: Hanson, Metwally.

Commissioner Metwally moved that the following items be recommended for approval and placed on the Consent Calendar of the Arts Commission meeting:

1. Recommendation (from Street Artists Liaison Committee) that Ord. 155-86 (granting priority to veterans for screening of wares) be allowed to expire and not be re-authorized by the Board of Supervisors.

2. Recommendation (from Street Artists Liaison Committee) that the Advisory Committee of Street Artists and Craftsmen Examiners be directed to increase visits to studios of applicants and to perform street monitoring duty at least one day per month.

3. Requests by former certificate-holders for priority in issuance of certificate - Ira Campbell, Craig Lasha, Ahna Pietras, Stephanie Porter.

4. Requests by applicants who have exceeded the 10-day period for purchasing certificate, for permission to obtain certificate - Diane Crawford, David Moore.

5. Requests by applicants for priority in screening - Linda Jennings, Michael Tanner, Signe Spicer (Mrs. Spicer's name to be placed on her husband Kim's application, as a family unit, awaiting screening).

The motion was seconded by Commissioner Hanson and unanimously approved. Commissioner Hanson stated that the request by former certificate-holder Virginia Travers, whose certificate expired three and a half years previously, would be heard at the next Committee meeting in November.

The Committee proceeded to Item I of the agenda.

I HEARINGS ON ALLEGED VIOLATIONS (continued from 9/4/86 meeting)

A. Gerard Pepper Cracas and Martin Butschek. Alleged violations: (1) Exceeding display size regulations of Ord. 41-83, Section 2405(c)(1), (3) and (4) - depth, height, length; and (2) conducting business in an improper manner (advertising mis-

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leading prices for items). Commissioner Hanson asked Program Director Lazar to summarize the events and Committee action of the previous meeting. Mr. Lazar stated that the Committee had heard from all sides of the first charge; that he, the Director, had recommended a two-month suspension for the first charge, for both artists; that the Committee had heard the complaint by artist Philip O'Neil regarding the second charge; and that Messrs. Cracas and Butschek had started to show a videotape to the Committee as their defense, when the meeting had to be adjourned.

Mr. Cracas asked that Street Artist Dennis Klein present a proposal for an assessment of penalties (for violations of Section 2405) before the Committee recommends penalties for Cracas and Butschek's case. Commissioner Hanson responded that an assessment of penalties is a separate subject which warranted a hearing for the following month; her Committee would continue to hear the case, as well as the others scheduled for the day, and would make findings as to whether violations had occurred, but the Committee would not set penalties until they standardized them after a full hearing scheduled for the following month.

Messrs. Cracas and Butschek set up their video equipment and played a videotaped rebuttal to Mr. O'Neil's allegation. The video, narrated by Mr. Butschek, showed Mr. Cracas drawing his customers at his display. Attached to the sides of the subject's chair were panels of sample portrait-cartoons and a $1.87 price sign. There were four other price signs attached to the display which, as Mr. Butschek narrated, were visible at any time to the customer while the customer was being drawn. On the video, Mr. Cracas asked his customer if he wanted his drawing with a frame, which would be $3.00, and whether he wanted the portrait in color, which, with tax, would be $3.00. The two artists directed the Commissioners' attention to a black-and-white sample drawing located at the bottom of the chair, a representative of the $1.87 price.

Mr. O'Neil asked the Commissioners to question what the premise was of the $1.87 sign, other than having an effect of unfair business practice for the other artists. He stated that the $1.87 was a "bait price," and that Cracas and Butschek really intended to color every picture and charge $3.00.

Through the Chair, Mr. Lazar asked Art Inspector Brown whether Cracas and Butschek's display offered a black-and-white sample now, and whether it had been on the display at the times Brown photographed them, through the year, in violation. Mr. Brown answered that such a sample was on the display now, since the start of their hearings; but that he had not seen a black-and-white sample of theirs at any of the times he had photographed them.

Commissioner Metwally said she felt the $1.87 sign contained all

Continued.....

the necessary information, and that it was typical of the country in that it attracted customers.

Commissioner Hanson stated that in order to make a finding of conducting business in an improper manner, the Committee would have to receive a clear preponderance of evidence. She added that the Cracas and Butschek type of advertising is used day in and day out in the media.

Commissioner Metwally stated that if they did not have the black-and-white sample on their display, the $1.87 price would be misleading. She stated that the Committee should suggest strongly that the two artists maintain such a sample at their display. Commissioner Hanson agreed that they should be strongly advised to continue displaying the $1.87 sample, and added that the evidence of their alleged improper conduct of business was not sufficient.

Commissioner Metwally moved that the second charge against Messrs. Cracas and Butschek, that of conducting business in an improper manner, be dismissed due to insufficient evidence, and that they be warned to continue maintaining a sample of their portraiture of their lowest price, on their display; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Hanson told the two artists that the penalty for the first charge against them would be considered at the Committee's hearing on standardizing penalties for violations of Section 2405, scheduled for the following month. Mr. Lazar was asked to notify them.

B. Douglas Lepre. Alleged violations: (1)Selling in a location not designated for street artists; and (2) exceeding display size - four-foot length requirement. Mr. Lazar stated that the Art Inspector had photographed Mr. Lepre selling in locations not designated for street artists on five separate occasions: December 21 and 22, 1985; March 26, May 2, and June 26, 1986. On December 22nd Mr. Lepre's display exceeded the four-foot length requirement by one and a half feet.

Art Inspector Brown testified that on each of the five occasions he would get out of his car, walk over to Lepre, and tell him he was in violation. On each of the occasions, Lepre packed up and moved.

Mr. Lepre told the Commissioners that it was all true, that he had committed the violations - with the exception of December 22nd when, he said, he was actually in a street artist space, "Stockton #3," but was nevertheless oversized. He added that he had a family - four children - and his wife was divorcing him and asking for child support and alimony ... that was why, he said, he had taken chances.

Continued.....

He said he would not continue violating, and that if he were not permitted to work, he would lose his children. He presented to the Commissioners letters from various Wharf merchants which, he said, stated he had never bothered them or been in the way of their stores.

Commissioner Metwally moved that, based on the evidence shown, Mr. Lepre be found in violation of selling in locations not designated for street artists and of exceeding the display four-foot length requirement; the motion was seconded by Commissioner Hanson and unanimously approved. Commissioner Metwally told Mr. Lepre that the penalty for his violations would be assessed at the following month's standardization of penalties meeting.

C. Dennis Klein. Alleged violations: (1) Selling in a location not designated for street artists; and (2) exceeding display size - four-foot length requirement. Mr. Lazar showed the Committee photos taken by the Art Inspector, and the Inspector's maps, of seven occasions in which he had observed Mr. Klein selling in locations not designated for street artists: December 20 and 21, 1985 (two illegal locations on December 21); February 12, April 6, April 12, and May 3, 1986. On December 21st, according to the Inspector, Mr. Klein's display exceeded the four-foot length requirement by an additional eight feet.

Art Inspector Brown testified that on all of the occasions he informed Mr. Klein that he was in violation; on December 21st, Mr. Klein was set up in front of Leeds store when Brown asked him to move - later on, Brown found him across the street in front of Joseph Magnin's - another illegal space.

Mr. Klein told the Commissioners that, on that occasion, he had told Mr. Brown that he was under non-profit status. (He submitted a mimeographed form of the Neightborhood Pals of Oakland, which, he told the Committee, he had assumed to be a valid form of a valid non-profit organization.) Mr. Klein said that Brown told him he was still a problem in that he was too close to the adjacent store's entrance; Klein told him that the twelve-foot-distance-from-door regulation for street artists was not in effect for non-profits. But he moved anyway ... At the time, he felt he was legal under existing law, selling as a non-profit. For the February charge, there was no citation issued to him; the Inspector merely took a photo of the display without his presence. For April 6 and 12 and May 3, the Inspector's citations contain no photographic evidence.

Mr. Brown told the Committee that with regard to the incidents of April 6, 12, and May 3rd, he did witness Mr. Klein set up in an illegal space. Commissioner Hanson stated that, from the Committee's point of view, Mr. Brown's testimony constituted evidence.

Mr. Klein said that once the Program obtained its video camera, better evidence could be furnished. But with regard to his alleged violations, the evidence was insufficient in that he could have been photographed

Continued.....

as merely packing up his display and putting it in his car. Also, a single snapshot shows he was in a spot but does not show a date.

Commissioner Metwally asked him if he had committed any violation at any time. Mr. Klein said he did not want to answer the question and be a witness against himself. He added that he had had doubts about the Commission's enforcement process and had lost respect for his accusers.

Mr. Lazar wanted it noted for the record that (a) the Arts Commission, upon receiving the directive from the City Attorney to enforce the sidewalk/display size regulations, had allotted a 60-day moratorium during which the Inspector had handed a notice of such enforcement to all artists on the streets; and (b) the City Attorney had advised that, until a standardization of penalties for such violations was adopted, the Commission could take action on such cases, on a case-by-case basis.

Commissioner Hanson asked Mr. Lazar if it were legally possible for a certified street artist to also sell as a representative of a non-profit group. Mr. Lazar said that it was possible.

Inspector Brown told the Commissioners that Mr. Klein had not been part of the non-profit group whose paper he had displayed, that the Neightborhood Pals of Oakland's Marvin Jackmon was selling his group's papers illegally, and that he, Mr. Brown, had told Mr. Klein that.

Mr. Klein stated that he had accepted the non-profit paper from someone as being a legal document for him to operate. Commissioner Metwally responded that ignorance of the law was no defense. Mr. Brown stated that Klein was a licensed street artist and at the time in question was not operating under street artist rules.

Commissioner Hanson stated that with respect to the occasions he was cited, when he did not have the non-profit paper (February 12, April 6, April 12, May 3), there was evidence to show that he was operating as a street artist and was in violation.

Commissioner Metwally moved that Mr. Klein be found in violation of selling in locations not designated for street artists; the motion was seconded by Commissioner Hanson and unanimously approved. Commissioner Hanson told Mr. Klein that the penalty for his violations would be assessed at the following month's standardization of penalties meeting.

Commissioner Hanson told all artists present that appeals of the Committee's recommendations could be made to the Arts Commission at its meeting of November 3, 1986, 3:00 p.m., Commission Room, Main Library.

The meeting adjourned at 4:10 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

November 18, 1986
45 Hyde Street, Conference Room (3rd floor)
San Francisco, California

M I N U T E S

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Commissioners present: Hanson, Metwally, Warburg

Commissioner Hanson, Chair, called the meeting to order at 3:10 p.m. and welcomed Commissioner Warburg to the Committee.

Item V, "REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE," was taken up. Commissioner Warburg moved that the requests by Darlene Pyeatt (former certificate #3131) and Barbara Althoff (former certificate #3108) be approved; the motion was seconded by Commissioner Hanson and unanimously approved.

Item IV, "RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE," was taken up. Commissioner Metwally moved that the following recommendation from the Liaison Committee be approved:

> Recommendation that Section 2406(b) Lottery be deleted (--): "The Art Commission shall specify three days in each week for the holding of a lottery for selling areas which are designated by the Board of Supervisors" and replaced with (as underlined) "The Art Commission shall specify a system for allocating selling areas which are designated by the Board of Supervisors."

The motion was seconded by Commissioner Warburg and unanimously approved. (Upon approval by the full Arts Commission, a request is to be transmitted to the Board of Supervisors for the above amendment to Section 2406(b).)

Commissioner Metwally moved that the following recommendation from the Liaison Committee be approved:

> Recommendation that the following provision be added to the Lottery Rules: "The last number for any morning lottery or mini-lottery may be given out only while the morning lottery is still in progress."

The motion was seconded by Commissioner Warburg and unanimously approved.

Commissioner Warburg moved that the following recommendation from the Liaison Committee be approved:

> Recommendation that the Lottery's "helper's rule" be amended as underlined: "In a two- or three-day lottery period, if an artist is helper on a second day, the artists may enter the lottery on the first day and either

Continued.....

use that number on the first day or retain his/her helper position for the second day; but if the artist chooses to be helper, the artist forfeits the right to use that number for any other day of that period or for the helpership for the next period. This applies to both helpers and Lottery Committee members."

The motion was seconded by Commissioner Hanson and unanimously approved.

Item III, "HEARINGS ON ALLEGED VIOLATIONS," was taken, and Program Director Lazar informed the Committee of the following:

A. Chris Egan and Kathy Egan - Mr. Egan had severe tonsillitis and could not be present for his hearing.

B. Claudia Hart - Ms. Hart had, the day before her scheduled hearing, delivered to the Program information which asserted that she was not selling on the day she was allegedly observed to be selling; the Program Director requested time to investigate this to see if there were still grounds for proceeding with the case.

C. Rose De Sena - Ms. De Sena's attorney, Susan Sheriff, had informed the Program that she would be unable to represent her client on this day due to all-day commitments in court.

Commissioner Hanson stated that these cases would be put over to the next meeting.

The Committee went to Item I, "HEARING ON STANDARDIZING PENALTIES FOR VIOLATIONS OF SECTION 2405 (DISPLAY SIZE AND LOCATION REGULATIONS)". Mr. Lazar referred to the proposal-petition submitted at the last meeting by Street Artist Dennis Klein, and called the Committee's attention to the proposal's recommendations for collecting a $54 fine or a certificate suspension of one week for the first offense, two weeks for the second offense, and three weeks for three or more offenses, in a twelve-month period; for the defendant to have an option of either accepting the fine or serving the suspension; for dismissal of any alleged violation that is not cited in writing at the time of the violation; and for dismissal of any alleged violation that is not depicted in a clear photo or witnessed by a person other than the Art Inspector.

Commissioner Hanson stated that while the petition reflected the favoring of a combination fines-suspension penalty system, the Committee had to consider the possibility of paying fines as a matter of space rental - if an artist's take is more than the fine, the artist may continue to violate.

Street Artist Robert Clark told the Committee that, to his knowledge, the Arts Commission as a civil agency was not empowered to levy fines, for fines are considered punishment and can only be meted out by a criminal enforcement agency. The concept of suspension or revocation, he said, was not considered a penalty process but a process to protect the integrity of the Program; suspension and revocation were the only enforcement steps that the Commission, a civil agency, had the power to do.

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Commissioner Hanson noted that the Public Library levied fines on persons who kept books overdue.

Commissioner Metwally stated that the levying of fines could present a collection problem difficult to enforce.

Street Artist Dennis Klein stated that his proposal allows the artist to choose accepting a fine or serving a suspension.

Several artists stated that the collection of fines would take care of the necessity for raising the certificate fee or adding a hundred new certificateholders to the Program in order to make up the deficit in revenue. Program Director Lazar voiced opposition to this: the Program, he said, has always been self-supporting by its certification fees; he did not want to see the Program rely upon - and support - violations for any part of its income.

Commissioner Hanson asked the artists whether they viewed violations of the street regulations as serious as violations of the work being sold. Mr. Clark responded that he viewed it as being just as serious - on several occasions the presence of another artist set up illegally and too close to Mr. Clark's display nearly put him out of business.

Street Artist Larry Rosenbloom told the Committee that 65 people at the lottery were polled, and only one person favored the same penalties for craft violations to apply to space violations. He said that the spirit of the poll was that the Commission would not be doing anyone a favor for being severre. He said that 83% opposed suspensions longer than what the petition proposed, and 41% favored suspensions shorter than that proposed.

Street Artist Martin Butschek stated that the Commission's priority should be enforcing the craft criteria, and that space violations by artists had been considtently thrown out of court.

Commissioner Metwally stated that she agreed with the artists that the space violations were not as severe as craft violations. She said that it was essential to have an organized program with structure and guidelines. The question was how to get prople to respect the guidelines - through fines? one-day or three-day suspensions?

Art Inspector Brown told the Committee that the swiftness in handling cases should be considered, that the present time delay in taking up cases loses meaningfulness. A system of fines, he said, could move this along: more violation cases would be taken off the calendar and the Committee would have more time to work with creative aspects of the Program.

Commissioner Metwally stated that the process could be speeded up if people were offered a choice to take an automatic suspension or come to a hearing. Such an option could be granted, for example, for first offenses.

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Mr. Clark reminded the Committee of the proposal he had submitted last March, an amendment to the hearing procedure which would be analagous to State procedure: upon receiving a notice of violation, an artist would be given the option to submit a request for hearing or to waive his right to it; upon waiving his right, or not responding at all, the Commission would proceed to act on the charge and institute a penalty. Mr. Lazar confirmed that the proposal had been submitted to the City Attorney for clarification as to whether the Commission has the power to adopt such a provision and whether the provision itself would be appropriate for the Commission's hearing procedure.

Commissioner Warburg asked Mr. Lazar to check on the matter with the City Attorney's office. Commissioner Hanson asked him to see if it would be possible to have clarification by the next meeting. In addition to receiving clarification, the Committee asked that the following provisions be submitted to the City Attorney for review:

1) An option for the artist to either "pay" a penalty or request a hearing.

2) An option for the penalty to be either a fine or a suspension.

3) A less severe suspension if chosen by the artist upon notification than a suspension received from a hearing.

4) A formal - that is, written - warning procedure (provision for issuance of one warning).

5) A schedule of specific time allotments for (a) the artist to respond with his choice of automatic penalty or hearing; (b) the scheduling of the hearing; and (c) the actual time of commencement of suspension.

Commissioner Metwally asked the Director to stress, in his letter to the City Attorney, that such a proposed procedure for handling the violations would ensure fair competition among the artists and would support the integrity of the Program.

Inspector Brown suggested that for a first offense, an artist's certificate should be suspended for three consecutive weekends. This was endorsed by Mr. Clark. It was opposed by Mr. Rosenbloom who stated that he would rather request a hearing than receive an automatic three-weekends suspension.

As the standardizing of penalties for violations of Section 2405 remained dependent upon the City Attorney's clarification, Commissioner Metwally moved that the Committee's recommendations of penalties for the previously heard cases of Gerard Pepper Cracas and Martin Butschek, Douglas Lepre, and Dennis Klein be postponed until City Attorney clarification is received and a standardization of penalties for violations of Section 2405 is adopted; the motion was seconded by Commissioner Warburg and unanimously approved.

The Committee concurred that its regular meetings be held on the third Tuesday of each month, from 3:30 - 5:00 p.m. The meeting adjourned at 4:45 p.m.

Respectfully submitted:

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

January 20, 1987
Main Library, Lurie Room
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RECTOR
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Commissioners present: Hanson, Metwally, Warburg

Commissioner Hanson, Chair, called the meeting to order at 3:30 p.m.

I REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Virginia Travers - Certificate #2673 expired March 9, 1983; Ms. Travers' request for priority was received September 8, 1986. Program Director Lazar summarized Ms. Travers' case: Ms. Travers was appealing to the Commission as a "hardship" case; she had been living in Spain with her husband at the time her certificate was due for renewal, he had refused to give her money for the renewal, she could not earn her own money due to the country's work restrictions, her efforts to return to the United States had been further hampered by the birth of her second child. It was only when her divorce had become finalized, that she had been able to split their business and receive her share to return to this country. Mr. Lazar read a letter of support for Ms. Travers from street artist Eunice Rodriguez. Mr. Lazar also clarified that while the Program's policy allows for the granting of priority to former certificate-holders who had been unable to renew due to medical reasons (such reasons corroborated in documents submitted to the Commission), the Commission did grant priority in 1981 to a former certificate-holder who had been unable to renew and earn a living as a street artist because of her having to raise her children; the priority in this case was granted two years after the former certificate had expired.

Ms. Travers submitted documents to the Committee: her residence card allowing her to work only in the business owned by her husband and herself; the October 17, 1982 birth certificate of her son (five months prior to the expiration of her certificate); and the renewal of her work permit designating her as (translated) a self-employed designer of jewelry. She told the Committee that she had spoken to Ana Forteza of the Spanish Consulate who, she said, could further substantiate Ms. Travers' information. She stated also that her career is a craftsperson, and that she felt it was important for her to sell her items directly to the public and not through a middle person; she stated that she did not want to live on welfare.

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Commissioner Hanson asked her why she had not written to the Program her intent to renew as well as her question on how she could renew. Ms. Travers answered that she had been "out of touch and had not known that a former certificate-holder could request priority in issuance of a new certificate, that she had not known what her rights were, and had not been certain that she would have the money to return.

Commissioner Metwally stated that she understood that there are countries in which a woman is a third or fourth class person, and that she understood how a woman could live under stress in such a country and receive no support. She felt that Ms. Travers' situation was clearly a hardship case.

Commissioner Hanson said that she understood thr pressure that prohibits people from exploring their options. She questioned whether a program could take that into account and still remain a systemized program.

Commissioner Metwally said she felt it was preferable to keep the category of "hardship" available but that it was necessary to establish strict standards that would categorize the hardship cases. If the "hardship" category remained open, Ms. Travers' request could be granted.

Commissioner Warburg stated that there appeared to be sufficient information to make findings so that a documentation of Ms. Travers' case could be used with respect to future cases, on a case-by-case basis.

Commissioner Metwally moved that Ms. Travers' request for priority in issuance of certificate be approved; the motion was seconded by Commissioner Warburg and unanimously approved.

B. Lorna Koppel - Certificate #2921 expired July 26, 1986; Ms. Koppel's request for priority was received October 27, 1986. Commissioner Warburg moved that Ms. Koppel's request for priority be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

C. Nancy Dong - Certificate #3109 expired November 4, 1986; Ms. Dong's request for priority was received January 6, 1987. Commissioner Warburg moved that Ms. Dong's request for priority be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

II HEARING ON STANDARDIZING PENALTIES FOR VIOLATIONS OF SECTION 2405 (DISPLAY SIZE AND LOCATION REGULATIONS), ORD. 41-83

Commissioner Hanson stated that while the City Attorney had been requested for a response to the Committee's questions on a standard penalty system, the Committee would proceed to recommend standard penalties within the Commission's present guidelines; then, upon hearing from the City Attorney, if changes in the penalties were necessary, changes would be made. The Commissioner read the Program Director's recommendations for penalties

Continued.....

ranging from suspension of certificate for two consecutive weekends and their intervening days, for a first violation, to suspension of certificate for six consecutive weekends and their intervening days plus consideration of revocation, for a fifth violation.

Street artist William Clark voiced his support for the first recommendation and his opposition to the subsequent recommendations for their being too lenient. He stated that if an artist were caught in violation a third time, his certificate should be revoked. The allowance of five times to violate would encourage more violations and would increase the work load of the Committee.

Street artist Robert Clark stated that it was his understanding that the Commission had been following standard penalties for Section 2405 all along, that they were the same as for the violations of wares - two months' suspension for a first violation and revocation for a second violation - except that for the Section 2405 violations, the Commission would consider mitigating the penalties on a case-by-case basis. He referred to lengthy meetings of the Program Committee conducted by former Chairman Taliaferro a year and a half previously.

Program Director Lazar stated that he would research the matter and inform the Committee of whether such standard penalties, as Mr. Clark stated, had been approved. Commissioner Hanson said that nevertheless if her Committee adopted a set of standard penalties now, the former penalties (if they had been adopted) would have to be rescinded.

Street artist Virginia Burris opposed the Program Director's recommendations for being too lenient, and stated that the stringent penalty system of two months' suspension and revocation for second violation has worked well. She added that if an artist were to receive a warning for the first time in violation, he should not receive a two week suspension for the second time but should receive a two months suspension.

Street artist Dennis Klein stated, on behalf of the recently formed Street Artists Guild, support of the Program Director's recommendations. Mr. Klein referred to a petition that had been submitted to the Program Committee last October, signed by 58 artists, and stating "we understand that at the present time there are no set penalties for this particular violation" (selling in undesignated areas - Section 2405) "and that the Arts Commission is considering each violation on a case by case basis." The petition had recommended either a $54 fine or suspension of one week for a first violation, two weeks for a second, three weeks for a third or more within a year. Mr. Klein told the Committee that street artist Larry Rosenbloom had raised the issue of penalties at the August, 1985 Program Committee meeting and that the meeting had ended with the understanding that there would be no set penalties and that the Art Inspector would enforce Section 2405 more leniently than the Police would. Mr. Klein further stated that, according to a recent survey of artists, two-thirds favored a system of fines as penalties, and only one artist had expressed preference for a

Continued.....

two months suspension. Mr. Klein felt that the penalty for a first violation should be in keeping with the Police Department's $54 fine.

Street artist William Clark said that Mr. Klein's survey was a self-serving document in that many of the people surveyed are violators.

Commissioner Metwally proposed that the Inspector's present procedure of issuing a written warning for first violation of craft and issuing a notice of violation for second violation be applied to the Inspector's enforcement of the Section 2405.

Inspector Brown asked for clarification as to the length of time he should allow an artist, after receiving written warning, to cease violating Section 2405. If an artist is not in a designated space, how long should he be given to remove his display? Commissioner Metwally asked Inspector Brown if half an hour was practical. Mr. Brown agreed that it was. (The Committee expressed its agreement that a half hour should be applied to such cases.) Commissioner Metwally expressed the view that if an artist were to receive a written warning for having his display oversized, and if the display could not be corrected immediately, then he would receive a notice of violation if he re-appeared with an oversized display on the following day or thereafter.

Street artist Dennis Klein reiterated his support of the Program Director's recommendations as being in keeping with the Police fines for the same violations. Street artist Virginia Burris proposed a three-week suspension for a first violation and four weeks for a second. Street artist Robert Clark stated there should not be a time limit, or time period for violations - instead of "within a twelve-month period" there should be no time period at all.

Commissioner Metwally moved that the following penalties be adopted for violations of Section 2405, Ordinance 41-83: For the same offense, a three-week suspension of certificate for the first violation, six-week suspension for the second violation, and consideration of revocation for the third violation; the motion was seconded by Commissioner Warburg and unanimously approved.

Street artist David Sheppard told the Committee that the six-week suspension was too severe and supercedes all previous penalty decisions.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Patricia A. Flynn - applied August 14, 1986 (veteran's priority); did not receive notice of her screening which was mailed September 15th; Ms. Flynn's request was received January 2, 1987. Commissioner Metwally moved that Ms. Flynn's request be approved; the motion was seconded by Commissioner Warburg and unanimously approved.

Continued.....

IV HEARING ON GOALS FOR THE STREET ARTISTS PROGRAM; RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE

Commissioner Metwally read the Liaison Committee's statement of goals, as discussed in a November 19, 1986 meeting: (1) To explore ways to improve the current ratio of actively selling street artists to the number of sales spaces; (2) To update the Program's handbook to include new lottery rules, and to distribute the book in order to familiarize the artists with the new rules; and (3) To initiate, on a trial basis, new lottery systems or other plans for the distribution of spaces.

No action was taken at this time; the matter was put over to a later meeting.

V NEW BUSINESS

A. Dismissal of alleged violation cases (Christmas, 1985). The Committee referred to a memo from the Program Director regarding recent clarification from the City Attorney's office on reasons for possible dismissal of cases that are backlogged for hearing. The Program Director was told that, in court cases, the more time that goes by before reaching hearing, the more prejudicial a case may become, as witnesses tend to disappear and evidence may become stale. The Arts Commission, if it saw fit, could dismiss certain cases for failure to prosecute in a timely manner.

The Committee noted that there were three cases of alleged violation (selling in non-designated spaces) from Christmas, 1985, that had not been heard due to the backlog of cases.

Commissioner Metwally moved that the following alleged violation cases be dismissed due to failure to prosecute in a timely manner - Chris and Kathy Egan, Claudia Hart, Rose DeSena; the motion was seconded by Commissioner Warburg and unanimously approved.

The meeting adjourned at 5:20 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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THE ARTS
COMMISSION OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

SPECIAL MEETING: HEARINGS ON ALLEGED VIOLATIONS

February 11, 1987
Public Health Building
Room 204 (Conference Room)
101 Grove Street
San Francisco, California

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Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

Commissioners present: Hanson, Warburg

Commissioner Hanson, Chair, called the meeting to order at 3:45 p.m.

I HEARINGS ON PENALTIES FOR VIOLATIONS OF SECTION 2405 (continued from October 28, 1986 meeting)

A. Gerard Pepper Cracas and Martin Butschek. Program Director Lazar summarized the events of the case and the Committee's findings: (1) The two certificate-holders were charged with violations of exceeding all three size regulations (length, depth, height) on seven separate occasions (from December, 1985, through July, 1986); (2) prior to their receiving a written citation from the Art Inspector on July 22, 1986, they had been warned by the Inspector, photographed, and requested to reduce their display on each of the seven occasions- the Inspector had told them on each occasion that they were in violation, he had watched them reduce their display size, only to find it again in violation the next time he would observe them; (3) at his previous hearing, Mr. Cracas had admitted that he had received from the Inspector, in the summer of 1985, the Arts Commission's notice to all street artists that the Commission would, upon the advice of the City Attorney, commence enforcing all the regulations, including those pertaining to size and location of display; (4) at the hearing last September, the Program Committee had requested and received the Program Director's recommendation for penalty: a two-month suspension of certificates for Mr. Cracas and Mr. Butschek. Mr. Lazar stated that he still felt the recommended penalty was in order.

Mr. Cracas told the Commissioners that he and Mr. Butschek had not intentionally wished to violate any of the rules, that they had been under the impression if they were doing something wrong they would be handed something in writing; they had received nothing in writing until July 22nd. Furthermore, he stated that having an oversized display was one of the least serious violations in the Program.

Mr. Butschek told the Commissioners that there had been other artists at the time who had been oversized in display, but that the Inspector never cited them. Some of them have never conformed

Continued.....

to the size regulations. Furthermore, he and Mr. Cracas had had no intention to violate; they had simply been working on the display to adapt it to the regulations at the times the Inspector had shown up.

Inspector Brown stated that on each of the occasions he had specifically told them how they were in violation, had watched them reduce the size of their display, and had left them - only to find them, upon his return, again in violation.

Commissioner Hanson stated that she was sympathetic to the artists' space problems but was, nevertheless, obliged to support the Program and its regulations. She proposed a compromise between the Director's recommendation of two months' suspension and the recently-adopted standard penalty of three-week suspension for a first violation of Section 2405: she proposed a one-month suspension.

Commissioner Warburg moved that the certificates of Gerard Pepper Cracas and Martin Butschek be suspended for a period of one month; the motion was seconded by Commissioner Hanson and unanimously approved.

B. Douglas Lepre. The Program Director summarized the events of the case and the Committee's findings: (1) Mr. Lepre was charged with two types of violations - (a) selling in locations not designated for street artists, on five separate occasions from December, 1985 through June, 1986; and (b) exceeding the display length requirement on one of the occasions; (2) the Art Inspector had testified that on each of the occasions he had explained to Mr. Lepre how he was in violation, and Mr. Lepre had packed up his display and left the site; (3) at his previous hearing, Mr. Lepre had admitted that the stated events were true, except for the noted violation of December 22, 1985 when, he said, he had actually been in a street artist space; at the hearing, he had stated that he had sold in illegal locations in order to support his wife an four children, that his wife was divorcing him and asking for alimony and child support; (4) the Program Committee and the full Commission had found him in violation for having sold in locations not designated for street artists and for having exceeded the display length requirement. The Program Director told the Commissioners that he recommended that Mr. Lepre's certificate be suspended for three weeks.

Mr. Lepre told the Commissioners that some of the violations were committed over a year and a half ago, and that since the last violation, he has not broken any of the rules. He stated that a three-week suspension would be too harsh. He asked that the penalty be deferred until his wife would be able to go to work which would be by the end of the year (at present, he said, she was dividing her time between taking a medical course and raising their children).

Commissioner Hanson moved that the certificate of Douglas Lepre be suspended for a period of three weeks commencing February 1, 1988, with the condition that if Mr. Lepre is found in violation a second time

Continued.....

for either selling in a location not designated for street artists or for exceeding the display length regulation, at any time prior to February 1, 1988, the violation shall be considered as a second violation and his certificate shall be suspended accordingly commencing two weeks after the Arts Commission's decision; the motion was seconded by Commissioner Warburg and unanimously approved.

C. Dennis Klein. The Program Director summarized the events of the case and the Committee's findings: (1) Mr. Klein was charged with selling in locations not designated for street artists on six separate occasions, from December, 1985, through May, 1986; (2) the Art Inspector had testified that on each of the occasions he had informed Mr. Klein of the nature of the violation; (3) Mr. Klein had testified that for the charge relating to December 21, 1985, he had not been operating as a street artist but as a non-profit charitable solicitor, for the February charge he had received no written notice of violation, and for the April and May charges, there were no photos of the alleged violations - neverthelss, the Program Committee had held that the Inspector's testimony was considered as evidence; (4) the Program Committee and the full Commission had found Mr. Klein in violation for selling in locations not designated for street artists. The Program Director told the Committee that he recommneded a one-month suspension of Mr. Klein's certificate.

Mr. Klein told the Committee that the Arts Commission had demonstrated selective aforcement by dismissing three cases of violations that had occurred during Christmas, 1985. He stated that he had been in the Program since 1975, that at the height of the Program in 1977 the artists had more spaces than they had now, and there were fewer artists in any given lottery - the chances had been better in obtaining a space. The artists' attempts in the summer of 1986 to get more spaces were vetoed by the Mayor. There were also no stated penalties for violatinns of Section 2405. He said that Roberts Rules of Order state that any member of society must be formally notified of having committed a violation; in three of the instances for which Mr. Klein was cited he had not received formal notification. The other three instances, he said, lacked evidence other than the Inspector's testimony. He said he felt that a fair penalty should be in keeping with that of a parking ticket, or the Police's imposition of a $54 fine for the same offense.

Commissioner Hanson stated that while the space conditions often made it difficult for artists to operate, Mr. Klein nevertheless was required to operate under the existing regulations of the Program. To allow him to do otherwise would weaken the Program. Commissioner Hanson moved that the certificate of Dennis Klein be suspended for a period of three weeks; the motion was seconded by Commissioner Warburg and unanimously approved.

Continued.....

II HEARINGS ON ALLEGED VIOLATIONS

A. Fernando Hechavarria. The Program Director stated the charges for Mr. Hechavarria's alleged violations and their dates: (1) On January 16, 1987 - (a) displaying items not of the artist's own creation and not in accord with criteria; and (b) improper conduct of business (indecent exposure in public); (2) On January 17, 1987 - (a) attempt of assault on a street artist. For charge (1)(a), the Director submitted a photo of the work on Mr. Hechavarria's display on January 16, 1987 and photographs of the work on his display on July 27, August 16, and August 30, 1986. For charge (1)(b), the Director referred the Committee to a January 21, 1987 lettter written by Marlin Willis and Sandra Bass. For charge (2)(a), the Director referred the Committee to the Art Inspector's incident report submitted January 22, 1987 and a January 22, 1987 letter written by John Bass.

Art Inspector Brown stated that every time he would warn Mr. Hechavarria to refrain from selling items not of his own creation, there would be heated demonstrations from Mr. Hechavarria. Mr. Brown referred to an instance in August of 1986 when Mr. Hechavarria had tried to hit him with his chair, and street artist Sherrie Tatum had had to restrain him. Mr. Brown further stated that he had witnessed Mr. Hechavarria have seizures on two occasions. In order to avoid his seizures and his temper, Mr. Brown said he has avoided him. He said he was concerned about his health.

In attendance were the persons who had written the two letters: Merlin Willis, Sandra Bass, John Bass. Mr. Bass told the Committee that he wanted to clarify that in the attempted assault incident, Mr. Hechavarria seemed to be attempting assault on the Inspector as well as on Bass.

According to interpreter Rosa Mariscal, Mr. Hechavarria claimed he was not responsible for what had happened, that he did not, according to the report, pull down his pants and expose himself to Mr. Willis and Mrs. Bass. Street artist Betty Bundschu testified that she had been set up next to Mr. Hechavarria, that he had been upset with Mr. Willis for having handled his jewèlry while he (Hechavarria) was away from his display, and that he did not take his pants down or expose himself to anyone or make gestures to anyone. She further stated that she had observed that his pants were unzipped and that she had told him so and he had zipped them.

Mr. Hechavarria's attorney, Ms. Kate Dixon, told the Committee that she would show that her client had had a grand mal seizure from beginning to end (with regard to charge of attempted assault).

Program Director Lazar referred the Commissioners to an excerpt from a February 1, 1983 letter by Deputy City Attorney Judith Boyajian which affirmed the Arts Commission's jurisdiction to suspend or revoke a street artist certificate of an artist who has assaulted the Art

Continued.....

another street artist, or a customer: "In addition, the Commission is specifically empowered to suspend or revoke ... when, after public hearing, it appears that the street artist is conducting his or her business in a 'disorderly, improper or hazardous manner.' "

According to the interpreter, Mr. Hechavarria stated that he did not remember if he threw the chain at the Inspector. The interpeter told the Committee that she asked him if he had been upset, and he had replied that he could not remember anything. The interpreter stated that he said "whenever he gets pushed around by other people, he doesn't know what will happen to him."

Mr. Bass told the Committee that he had submitted his written complaint because Mr. Hechavarria had tried to hit him with a lethal weapon. If this charge was not going to be considered by the Committee, he said, he would file with the Police.

Street artist Sally Rowley told the Commissioners that she knew Mr. Hechavarria for over three years, and that she has never seen him behave as anything more than a perfect gentleman. She stated that he has a medical problem, that he is under medication, and that the Committee should regard this as an isolated instance. She said she has seen him have seizures in the past without anything preceding the seizure. She also advised the Committee to consider "other personalities in this problem."

Ms. Dixon asked the Commissioners if a doctor, for example, of UC could be appointed to see if Mr. Hechavarria was fit to continue as a street artist.

Commissioner Warburg stated that he felt a medical opinion was necessary before his Committee could continue with the case. He also asked that the City Attorney be consulted as to the Commission's procedure in this matter - should the Commission continue in this line, or not continue? He asked that a member of the City Attorney's office be present at the next meeting on this case.

Commissioner Hanson stated that Mr. Hechavarria should provide the Committee, by the time of its next meeting on March 17th, with a comprehensive report as to whether he is in a regular treatment program, and how his disability relates to, or affects, his being on the streets.

Commissioner Hanson moved that the hearings on alleged violations of Fernando Hechavarria and James Toolate be continued to the Program Committee's meeting of March 17th; the motion was seconded by Commissioner Warburg and unanimously approved.

The meeting adjourned at 5:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

REGULAR MEETING

February 17, 1987
Main Library-Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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M I N U T E S

Commissioners present: Hanson, Metwally, Warburg

Commissioner Hanson, Chair, called the meeting to order at 3:56 p.m.

I REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Denis Cassity - Certificate #2726 expired November 3, 1985; Mr. Cassity's letter-request (with medical documentation) was received by the Program on January 30, 1987. The Commissioners reviewed his letter and medical documentation which detailed drug abuse and nervous breakdown and hospitalization at the time of his certificate's expiration and for the next year. Commissioner Metwally moved that Mr. Cassity's request for priority be approved; the motion was seconded by Commissioner Warburg and unanimously approved.

II STREET ARTIST LOGO/CERTIFICATE DISPLAY HOLDER AND T-SHIRT (SUBMISSION BY S. F. STREET ARTISTS GUILD)

Commissioner Hanson stated that historically there had been discussion by the Committee, the street artists, and the Wharf merchants regarding the presentation of an "image" of the Street Artists Program in order to make the artists easily identifiable on the streets.

Street artist Dennis Klein, of the Street Artists Guild, showed the Commissioners a design layout of the Commission's logo to be used as part of a certificate holder and a business card for the artists - these items to be sold to the artists to cover the costs involved. The holder, he said, would be laminated and attached to the artist's display. This idea came about as a request from Mr. Alessandro Baccari of the Fisherman's Wharf Merchants Association months ago, in order to distinguish the artists from the charitable solicitors, peddler's licenseholders, etc. Mr. Klein said he envisioned the logo items at the Wharf and downtown by summer. He also said there were plans for the logo to be placed on a T-shirt which would also read "San Francisco Street Artist" - a few of these, he said, have already been made and sold to some artists. He said there was a

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possibility that the Guild would register itself under the non-profit law and would thereby be able to sell these items to the public.

Commissioner Metwally asked what would happen if some of the non-profit people bought these items and then passed themselves off to the public as street artists. The Committee considered this possibility.

Commissioner Warburg stated that he approved of the idea and asked Mr. Klein how he would obtain approval by all the artists on the typography and layout. He asked whether it would be only the Guild who would be approving it and producing the items. Mr. Klein answered that the Guild uses a bulletin board to display various layouts and designs, that a consensus was taken, and that the typography and design presently before the Committee were the results of the consensus.

Commissioner Warburg said he felt the lettering "S. F. Street Artist" required re-studying; he did not feel that the "F" read well, and that perhaps "S. F." was not needed at all, as "Street Artist" appeared directly under the seal of the City and County.

Commissioner Hanson said she felt "St." should be spelled out ("street") and that the word "authorized" should be used, as "authorized street artist."

Commissioner Metwally disagreed with use of the word "authorize" as being unnecessary, as, she said, the logo is and of itself authorization.

Street Art Inspector Brown suggested the words "licensed by the City and County of San Francisco."

Commissioner Warburg moved that the Commission approve the concept of the Guild's proposal for a street artist logo on various items and that details of its design may be submitted by the artists, subject to further approval by the Program Committee; the motion was seconded by Commissioner Metwally and unanimously approved.

III HEARING ON ALLEGED VIOLATION

A. Amy Dong. Program Director Lazar reported that he had heard Mrs. Dong was out of the country and that her notification to appear may not have allowed her sufficient time to respond. He requested that her hearing be put over to the following month. The Commissioners consented to this.

IV REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Janet Tassano (applied March 29, 1984). Commissioner Metwally moved that Ms. Tassano's request for postponement of screening until January, 1988, be approved; the motion was seconded by Commissioner Warburg and unanimously approved.

Continued.....

B. Mary Sue Allen (applied March 15, 1984). Commissioner Metwally moved Ms. Allen's request for postponement of screening until July, 1987, be approved; the motion was seconded by Commissioner Warburg and unanimously approved.

C. Michael Tanner (applied August 30, 1982). Commissioner Metwally moved that Mr. Tanner's request for postponement of screening until January, 1988, be approved; the motion was seconded by Commissioner Warburg and unanimously approved.

V HEARING ON GOALS FOR STREET ARTISTS PROGRAM; RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE

Commissioner Metwally stated that the Arts Commission had asked that each of its Program Committees prioritize its goals and to propose those goals that can be achieved by the end of the current fiscal year.

Program Director Lazar stated that he felt that it was possible for the Program to realize all three of the Liaison Committee's goals by the end of the fiscal year: (1) To explore ways to improve the current ratio of actively selling street artists to the number of sales spaces; (2) To update the Street Artists Program's handbook; and (3) To initiate on a trial basis new lottery systems for the distribution of spaces. Mr. Lazar said that the Liaison Committee was currently in the process of working out new lottery proposals which could go into effect within the next month and a half, subject to the Board of Supervisors approving an amendment to the "lottery" section of the law.

Mr. Dennis Klein, member of the Liaison Committee, stated that he had helped the Committee's Chair, Linda Stark, draft the goals, and that relative to the first goal, it was possible to take the data from any given lottery, divide the number of artists by the number of spaces in order to find the ratio and to calculate an individual's odds in obtaining a space. He said they were trying to find ways to better the odds for an artist, and that either more spaces should be added or the number of artists should be decreased.

Street artist William Clark stated that the best solution would be to look for new spaces in areas that would lend themselves to being open for spaces. Several months previously, he stated, Wharf representatives Al Baccari and Chris Martin had told him that they would be willing to Wharf endorsement to more spaces in other areas, as, for example, Clement Street.

Commissioner Metwally noted that the situation was similar to the bar exam: lawyers receive the right to practice law, which is not the same as actually practicing law. The question she saw was whether the "test" should be tougher.

Mr. Clark said he felt it was an injustice to allow ten to fifteen applicants for permits to be screened in fifteen minutes; each applicant should have a fifteen-minute screening. If there is doubt, the screen-

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ing committee should go to the applicant's workshop. While he said he was not trying to slow down the process, the fifteen-minute screening and studio visit would achieve a more credible screening procedure and would allow for only sixteen people who could physically be screened per month (as the screening committee was allotted, by law, thirty meetings a year). Eventually, he said, the Commission would reach a balance of those entering the Program and those leaving it.

Street Art Inspector Brown stated that at present in most instances the screening committee spends fifteen minutes or more with each applicant.

Street artist Robert Clark told the Commissioners that new lottery systems will be tried to allow a better distribution of spaces for all artists, and that in the next two months, he hoped to work with the Liaison Committee to try to eliminate "luck out of our livelihood." He said that he and his brother have proposed a system that totally eliminates luck. William Clark stated that, instead of having a daily lottery, everyone who wants to sell for the next month would have to notify the Arts Commission. The artists' would then have punch-cards (the holes denoting the number of days they have sold); the person with the fewest punched holes would have first choice of the spaces. ... He added that there are fifty-five prime spaces, out of which twenty are "the cream of the crop." The new proposal would encourage people to stay away for a day or two in order to increase their odds of getting a prime space.

Commissioner Metwally asked how often the people who regularly work in the Program obtain spaces to work. William Clark replied that there were fifteen to twenty people who regularly work during the week, and that for the months of June through September the people work seven days a week. Portrait artists, he said, are able to work and sell every day, due to the nature of their craft; while potters and jewelers have to spend time away from the streets in order to produce their work. His proposal, he said, would take away some of the odds of those persons who sell all the time. His system would eliminate the current lottery practice of giving away choice spaces to twelve lottery workers each day.

Commissioner Hanson stated what she felt were prime goals for the Program: (1) Exploring ways to improve the ratio of artists to spaces; (2) Updating the Program handbook; (3) Reviewing the street artist ordinance for possible amendments, in order to implement the ordinance more efficiently; (4) Defining the image of the Program; (5) Applying more emphasis on discussion of the Program (not as much time, as present, on violation cases); (6) Giving more attention to the screening procedure and upgrading the Program.

With regard to the Commissioner's fifth goal, street artist William Clark said that the Commissioners should not have to spend time in hearings of requests by former certificate-holders for priority in issuance of new certificates; the former certificate-holders should be re-issued their

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certificates so long as they intend to sell what they had been certified to sell. These cases, therefore, would not take up the time of the Program Committee, nor the time of the screening committee. In addition, he said, his proposal to streamline to hearing procedure on violation cases - persons of certain violations being able to waive their hearings and accept an automatic penalty - would result in the elimination of fifty percent of the Committee's time spent on violation cases. (The Commissioners were waiting for the City Attorney's opinion on this, and other, proposals.)

Commissioner Hanson moved that the following goals, in order of priority, be submitted to the Commission:

1) To explore ways to improve the current ratio of actively selling street artists to the number of sales spaces.
2) To initiate, on a trial basis, new lottery systems for the distribution of spaces.
3) To define the image of the Program; give more attention to the procedure of screening applicants for certificates.
4) To focus on the Program itself.
5) To update the Street Artists Program handbook.
6) To review the street artist ordinance for possible amendments, in order to implement the ordinance more efficiently.

The motion was seconded by Commissioner Metwally and unanimously approved.

Inspector Brown stated that he felt the time was right to ask for more sales spaces - for example, some of the Christmas 1986 spaces to be made permanent. Also, he said, he would like to see a meeting with BART authorities in order to obtain four to six spaces in one of the BART stations. He said there are already newspaper and flowers stands in the stations. Commissioner Hanson agreed that the time would be appropriate for such requests; she said she would submit this as a recommendation to the full Commission in her Committee Report.

VI NEW BUSINESS

Program Director Lazar submitted recent Liaison Committee recommendations for the Program Committee's next agenda (March 17th): a recommendation for a time period denoting first, second, and third violations, and their penalties, for the artists; a recommendation for all sales spaces combined into one lottery; a recommendation that the artists be polled for their views of such a lottery. The Commissioners asked that these recommendations be placed on the Program Committee's next agenda.

Street artist William Clark asked the Committee to send a letter to the City Attorney's office, requesting the City Attorney to proceed as quickly

Continued.....

as possible in the litigation with the Longshoremen's Union and their rental of their parking lot to vendors. The Program Director said he would write to the City Attorney's office.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

March 17, 1987
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DIRECTOR
Claire N. Isaacs

Commissioners present: Hanson

Commissioner Hanson, Chair, called the meeting to order at 3:40 p.m. and informed those present that she would be conducting the meeting as a committee-of-one.

I REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Joseph Beckman - Certificate #2874 expired February 10, 1987; Mr. Beckman had mailed his renewal payment four days after his final grace period day for renewal (February 26, 1987). Commissioner Hanson told Mr. Beckman that she would recommend to the full Arts Commission that his request for priority in issuance of a certificate be approved.

II REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Andrew Fernandez - applied May 27, 1983, was notified to appear for screening of his wares on December 17, 1985, but, according to his letter to the Program, he did not receive his notification; his request for priority was received by the Program on February 26, 1987. Commissioner Hanson said she would recommend to the Commission that Mr. Fernandez's request be approved.

III RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE

Commissioner Hanson responded to each of the following recommendations from the Liaison Committee's February 11th meeting:

A. Recommendation for re-consideration of penalties for violations of Section 2405, Ordinance 41-83. Commissioner Hanson asked Street Art Inspector Wallace Brown if he was satisfied with the recently adopted penalties; Mr. Brown responded that he was satisfied that they were acting as a positive deterrent, that he did not feel they were too severe, and that, as it is, an artist - when first caught in an offense - receives a written warning from the Inspector, then, if caught again, receives a violation notice and hearing. Commissioner Hanson said she would not re-consider the penalties at this time but would maintain them and evaluate them at a later date.

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B. Recommendation for a time limit on counting an artist's violations. Program Director Lazar reported that, while the Liaison Committee had voted to request the Program Committee to establish a time limit, the Liaison Committee had not been in agreement as to what the time limit should be - some members had felt one year would be proper, others had stated a year and a half. Mr. Lazar had spoken to Deputy City Attorney Boyajian who told him that a limit of three to five years would be meaningful. Commissioner Hanson said she would recommend to the Commission that a three-year time limit be adopted, and that at the end of three years, the Program Committee could evaluate the time limit and see if it would be necessary to make it longer.

Street artist Robert Clark said there should be no time limit, that artists know what the rules are when they enter the Program, and that the Commission was not responsible to provide any time limit. The Commission, he said, would be encouraging people to break the rules. The Commission, he added, did not have to be lenient; however, the three-year limit would have an effect.

Street artist Mark Kielty endorsed the three-year limit as being better than a one-year limit which would allow scams to flourish.

C. Recommendations for all sales spaces to be combined into one lottery and for a polling of artists for their preference of various types of lotteries. Mr. Lazar reported that the artists were being polled for their preference, and that the results of the poll would, in a month's time, be submitted to the Program Committee for authorization to operate a new lottery system on a thirty-day trial basis. Commissioner Hanson stated she did not feel these two recommendations warranted Arts Commission resolutions but that the Program could handle them administratively.

IV HEARING ON ALLEGED VIOLATIONS

A. James Toolate (hearing re-scheduled from February 11 meeting). Mr. Toolate was not present. Program Director Lazar told Commissioner Hanson that, just before the meeting, an artist had told him that Mr. Toolate had gone to Sacramento on the previous Saturday to see his wife who was ill; Mr. Lazar said that he not received a phone call nor a letter from Mr. Toolate that he would be unable to attend the hearing. He referred the Commissioner to one of the provisions of the Commission's Hearing Procedure, which was stated in the hearing notification sent to Mr. Toolate: "Failure to appear may result in a Program Committee recommendation of the penalty for the violation(s) of which you have been charged. If this recommendation is approved by the Arts Commission, you may either file an appeal with the Board of Permit Appeals within ten days or request a re-hearing with the Program Committee within ten days from the date of the Commission's resolution. ..." Commissioner Hanson asked the Director to proceed with the hearing and advised that, if the Commissioner intended to submit a

Continued.....

recommendation for penalty (by the end of the hearing), Mr. Toolate be notified of the Commissioner's intent by mail and in-person by the Art Inspector. Mr. Lazar agreed to send him a letter on the following day; Inspector Brown agreed to hand-deliver a copy of the letter to Mr. Toolate on the street.

Mr. Lazar related the incident. On January 9, 1987, street artist Mark Kielty telephoned the Program office to report that his wife had that morning seen bracelets that she and her husband made, on the display of another artist, James Toolate, and that these items were part of nearly $3,000 worth of their jewelry that had been stolen out of their home. Mr. Kielty asked that Mr. Lazar and Mr. Brown meet him at Mr. Toolate's display, for identification of the items. At this point, Mr. Lazar asked Inspector Brown to relate the rest of the incident to the Commissioner.

Inspector Brown stated that he and Mr. Lazar met Mr. Kielty at Mr. Toolate's display on Stockton Street, that Kielty had identified six of his bracelets on Toolate's display and asked him if had more. Toolate had denied having more. Brown and Lazar got his permission to search his bags and found eleven more bracelets which Kielty indentified as his own. Toolate said he had purchased them from an unknown black vendor, and that he did not know they were Kielty's. He then gave Kielty $50 to cover some of the bracelets which he said he had already sold. According to Brown, this was, in effect, an admission that the items were not his.

Mr. Kielty told Commissioner Hanson that Toolate admitted he purchased forty pieces from the vendor, told them he had sixteen left, and then Kielty found more on his display. Kielty had suggested that the Police not be called, as he had heard Toolate had had trouble with the Police; now Kielty wished he had called the Police. He added that Toolate wanted to convince the Commission that he had purchased the items to avoid being charged with having stolen them.

Mr. Lazar enumerated the charges: (1) Displaying items not of the artist's own creation - these included Mr. Kielty's bracelets as well as store-bought commercially manufactured earrings and belt buckles; (2) improper conduct of business (possessing stolen property). Commissioner Hanson examined the Inspector's photographs accompanying the report.

The Commissioner stated that she felt the issue was clear-cut and that she would recommend that Mr. Toolate be found in violation for selling work he did not make, which merits a two-month suspension. With regard to the charge of improper conduct, she said, while the evidence was circumstantial, the best construction was that he had purchased the stolen goods, and the alternative was that he had stolen them. For this charge, she would recommend that he be found in violation.

Continued.....

Inspector Brown pointed out that engraved on the inside of the bracelets were the words "Mark and Kitty." Mr. Kielty testified that, during the previous summer, Toolate had one time come by Kielty's table, and Kielty had shown him his work. He told the Commissioner that what concerned him was that if Toolate were treated with too much leniency this would send a message out to others that they could get away with anything.

Street artist Dennis Klein stated Toolate had told him he had purchased the items, but that he had not told him he knew they were stolen. Also, Klein said, Kielty does not sell on the streets very often; therefore, it wasn't necessarily true that Toolate could have recognized the items. The vendor came by Toolate's table; Toolate accepted the merchandise, saying probably, yes these would look good on my table ... A lot of wholesalers, said Klein, come around to the street artists and sell them goods.

Mr. Kielty said that the quality of his items was not the average quality of items found on the streets.

Commissioner Hanson said that the circumstantial evidance suggested strongly that Toolate either stole the items or knew they were stolen. She said she would recommend to the Commission that his certificate be revoked.

V NEW BUSINESS

Street artist Robert Clark reported that the issue of the Longshoremen's parking lot (leased to tenant vendors) was finally being heard in Superior Court on April 6th, 9:30 a.m. This was an appeal of the decision of the Board of Permit Appeals. He asked that the Street Artists Program staff attend.

Street artist Dennis Klein stated he wanted to go on record as thanking Robert and William Clark for following this issue, and encouraging City action, all these years. Mr. Clark asked that Mr. Klein request artists to attend the hearing in order to show the judge support of the affected street artist locations.

Commissioner Hanson enquired about the progress being made as a result of the Mayor's directive to the Police to meet with the Arts Commission staff on strategy for enforcing the charitable solicitors' law. Mr. Lazar related the meeting with Commander Scheffler, Claire Isaacs, Wallace Brown, Officer Winter, Deputy City Attorney Riddle, and himself in Ms. Isaacs' office. Inspector Brown reported that, commencing on the previous weekend, he was patrolling the Wharf and Downtown areas on the weekends of March with the beat officers of Central and Southern stations, and that a vendor who used to belong to a non-profit group had been arrested (on Stockton Street) for not being licensed as a vendor or registered as a non-profit and for also having a twelve-

Continued.....

foot display, had been taken to the Police station, and had had his merchandise confiscated as evidence for his trial. After the incident, illegal vendors cleared the streets.

Commissioner Hanson stated the new strategy implied good communication with the Mayor and the Mayor's recognition of the differences between the street artists and the non-profit people. She encouraged the staff to request a representative from the Mayor's office be present at the forthcoming meeting of the Police and Ms. Isaacs and staff.

On other business, street artist Dennis Klein reported that while the Program was circulating the Liaison Committee's poll on lottery systems, the Street Artists Guild had also put out a poll. He said he would report the results to the Program Committee.

The meeting adjourned at 4:40 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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#1
4/21/87

THE ARTS
COMMISSION
OF SAN FRANCISCO

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DIRECTOR
Claire N. Isaacs

STREET ARTISTS PROGRAM COMMITTEE

April 21, 1987
Main Library-Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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MAY 1 1987

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PUBLIC LIBRARY

M I N U T E S

Commissioners present: Hanson and Metwally

Commissioner Hanson, Chair, called the meeting to order at 3:32 p.m.

I HEARINGS ON ALLEGED VIOLATIONS

A. Claudia Hart. Alleged violation: exceeding display length regulation. Program Director Lazar submitted the Insector's report: On July 26, 1986, Ms. Hart was exceeding the display length regulation while set up on Beach Street; in the report, the Inspector had commented that he had "personally warned Claudia about being oversized and showed her how it should be in order not to be oversized three days ago. Dennis Bustillos can witness this ..."

Ms. Hart told the Committee that her display had been six inches oversized but had not been oversized since the incident. Director Lazar asked Inspector Brown to corroborate this; Mr. Brown stated that she had not been oversized since the incident. He added that her display at the time of the incident, however, had been more than six inches oversized.

Commissioner Metwally confirmed that both the Inspector and Ms. Hart were in agreement that Ms. Hart had been at least six inches over the length regulation. Commissioner Hanson stated that there was no question that the violation had occurred. Comissioner Metwally moved that it be found that Ms. Hart had violated the Street Artist Ordinance by exceeding the display length regulation; the motion was seconded by Commissioner Hanson and unanimously approved.

The Committee noted that Ms. Hart had, since the incident, taken corrective measure, and that the incident itself was an old violation. Commissioner Hanson moved Ms. Hart's certificate be suspended for the three-day weekend of May 29 through May 31; the motion was seconded by Commissioner Metwally and unanimously approved.

B. Fernando Hechavarria (hearing continued from 4/2). Alleged violations: (1) display of items not of the artist's own creation and not in accord with criteria; (2) improper conduct of business; and (3) attempt of assault on a street artist.

Continued.....

With regard to the first charge, Program Director Lazar presented a photograph taken of Mr. Hechavarria's brass bracelet items at his screening for certification on March 26, 1985, and read from the Advisory Committee's minutes that when the work was originally presented, there had not been enough samples, receipts for materials, and tools shown to the Committee, that the Committee had asked him to return the following month, that he returned later during the screening session, and that the Committee had recommended that he be certified for brasswork only. Mr. Lazar then presented a commercially-manufactured brass replica of a Wells Fargo agent's badge and a recipt for the purchase of the item, and submitted it as evidence to counter Mr. Hechavarria's statement at the last meeting that he cut the badge and engraved on it.

Commissioner Hanson examined the badge and noted that the design of the lettering and stagecoach logo was different from the plexiglass template Mr. Hechavarria had shown the Committee, and that the badge was rounded, whereas Mr. Hechavarria's cut-out sample had been flat.

Advisory Committee members Matt Porkola and Ed Kyto Poskus told the Commissioners that they had been present at Mr. Hechavarria's screening. Mr. Porkola stated that there had been a problem the first time Mr. Hechavarria had come in because he brought only a few finished items with all other items unfinished. Mr. Poskus stated that his Committee never saw anything Mr. Hechavarria had presented them like the items pictured in the photo of his display at the time of the incident. He said Mr. Hechavarria had not shown his Committee belt buckles or key rings. Mr. Porkola noted that the cable car key rings looked cast, and that Mr. Hechavarria had not shown them any cast items. Mr. Poskus further stated that he noted beadcraft items in the photograph and that Mr. Hechavarria was not certified for beadcraft; all that he had shown the Advisory Committee, Mr. Poskus stated, were simple brass bracelets and earrings. He added that Mr. Hechavarria, as all applicants, was told by the Committee that if he wished to add a craft to his permit, all he had to do would be to come back in a month, show it to the Committee, and, if approved, have it added to his permit. Mr. Poskus noted further that the photo of the incident showed "intricate beadwork, coral and stone, as well as cast or filigree earrings"which Mr. Hechavarria had not shown to the Advisory Committee. Mr. Porkola noted that he saw, in the photo, "quite a bit of lapidary work" which the Committee had not approved.

Commissioner Hanson stated that it was clear Mr. Hechavarria had been selling items that had not been of the approved criteria, and that there was strong evidence that he had not made the items he sold - specifically, the Wells Fargo badge, which he had intended to prove that he made.

Mr. Hechavarria's attorney, Ms. Kate Dixon, ascertained from the Committee that her client was not being charged additionally with failing to have his items screened and certified.

Mr. Lazar enumerated the three categories of items shown in the photo which, he contended, were not made by Mr. Hechavarria - cable car key

Continued.....

rings, stone-set metal belt buckles, Wells Fargo badge.

The two Advisory Committee members examined two samples of the cable-car key fob submited by Mr. Hechavarria; one sample was finished and highly polished, the other was rough-cast and dull. Mr. Poskus said they were obviously recently cast pieces, and he questioned where the original cast came from and who it was who made the original design.

Mr. Hechavarria, through Ms. Dixon's interpreter, replied that he and Alfred (Gamarra) made the mold.

Mr. Porkola stated that the polished piece showed more detail than the dull piece, and that this detailing could not have been brought up by polishing. He said it looked like a mold may have been taken off the finished piece and the cast dull piece made from the mold.

Mr. Lazar asked Mr. Hechavarria if he had drawn the original cable car and carved the original sculpture. Mr. Hechavarria replied that Alfred made the original design and had carved it.

Commissioner Hanson noted that there was a "reflection of panels in the finished cable car" and asked if polishing could have brought it up. Mr. Porkola testified that, if anything, polishing would have worn it down. Commissioner Hanson noted the lettering on the finished piece and its loss of it in the rough-cast piece; she noted also a loss of other detailing in the rough-cast piece - the second figure from the left, the lack of delineation of a woman's arm.

Mr. Hechavarria said he worked with sand and with a buffing wheel.

Commissioner Metwally stated that if Alfred had made the mold and carved it, then it was really not created by Mr. Hechavarria. Commissioner Hanson said that the evidence suggested that.

Mr. Hechavarria presented a metal buckle. Mr. Poskus said that it was a commercially manufactured buckle.

Mr. Hechavarria presented various metal money clips and brass bracelets. The Advisory Committee members stated that these items were similar to what he had shown them at his screening and what he had been approved to sell.

Ms. Dixon said that her client had testified truthfully and that what was at issue were three items, two of which were a close call as to whether they had been commercially manufactured.

Commissioner Hanson stated that the buckles Mr. Hechavarria had presented at his last hearing had not reappeared today. She said also that the template Mr. Hechavarria had presented of the Wells Fargo badge (at the last session) had revealed that there was no possible way it could be

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used to produce the engraved finished design on the finished badge he had presented. She said that it had not been accurately stated that he carved it from the template because the template was different from the finished design. She went on to state that the cable car piece revealed that the finished cable car was not made from the rough cast cable car, that the lack of detail in the rough cast piece could not be made up for in the finishing process. She concluded that the finished one could not have come from the rough cast one.

Commissioner Metwally added that it was a critical point in the hearing that Mr. Hechavarria had stated that another person had carved and made the mold.

Mr. Poskus stated that if Mr. Hechavarria had told the Advisory Committee that someone else made the mold, he would not have been approved to sell the item.

Commissioner Metwally moved that it be found that Mr. Hechavarria had violated the Street Artists Ordinance by displaying items not of his own creation; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Metwally referred to the Penalties for Violations listed on Page 12 of the Street Artists Program handbook which states that there shall be a two-month suspension of certifiate for a first offense of violating the ordinance by displaying items not of the artist's own creation, and that there shall be revocation of certificate for a second offense of the same violation.

Inspector Brown asked that the Committee inform Mr. Hechavarria that he could not sell the inlaid-stone buckles (for which he was not certified), as the buckles were commercially manufactured, and Mr. Hechavarria had not been approved for lapidary. Mr. Brown said also that while Mr. Hechavarria had shown the Committee samples of his handmade metal chokers, he also sells chokers made in India.

Commissioner Metwally asked Mr. Hechavarria if he had any questions about the rules; he responded that he had no questions. He added that a two-month suspension was too much for him. The Commissioner answered that that was what was stated in the rules.

The Committee heard the second charge against Mr. Hechavarria - improper conduct of business (indecent exposure in public). Program Director Lazar summed up the testimony at the February 11th hearing and stated that there was not a preponderance of evidence to support the charge, that it had come down to one word against another among the witnesses. Commissioner Hanson moved that, due to a lack of evidence, the Committee not pursue the charge against Mr. Hechavarria of improper conduct of business/indecent exposure in public.

The Committee went on to the third charge - attempted assault. Mr. Lazar summed up the Committee's requests (from February 11th)

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that Mr. Hechavarria and his attorney furnish the Committee with a comprehensive report as to whether Mr. Hechavarria was in a regular medical treatment program and how his disability relates to, or affects, his activities as a street artist on the streets. Mr. Lazar stated also that, at the February 11th hearing, Inspector Brown had testified that there had been an occasion when Mr. Hechavarria had attempted to hit Brown with a chair and had been stopped by another artist, and that Mr. Brown had stopped Mr. Hechavarria from attempting to hit artist John Bass with a bicycle chain. Mr. Lazar also stated that, at the February 11th hearing, Mr. Bass had testified that Mr. Hechavarria had not only tried to strike him but had also tried to hit Brown as well.

Commissioner Metwally read an excerpt from a February 1, 1983 letter by Deputy City Attorney Boyajian to Mr. Lazar (reprinted on Pages 54-55 of the Program handbook): "... Section 24 of Part III provides in relevant part as follows:

> " Any department authorized to issue, revoke or transfer permits ... may revoke any permit subject to issuance by said department when it shall appear that the business or calling of the person, firm or corporation to whom it was granted is conducted in a disorderly, improper or hazardous manner ...."

Commissioner Metwally said it was clear, in this case, that Mr. Hechavarria had conducted business in a disorderly, improper or hazardous manner.

Ms. Dixon questioned her client before the Committee: Did he assault Mr. Bass? Answer: No. Did he pick up a bicycle chain that day? Answer: No. Did he get sick that day? Answer: Yes. When he woke up he was in a hospital. What made him sick? Answer: The two artists came and started messing around with his table; he was at another table at the time and has two witnesses who saw it and told him about it when he woke up. Was he going to the doctor now for his seizure problem? Answer: Yes, and was taking dilantis pills. Did the doctor ever tell him he could not work as a street artist? Answer: No, he never told him such a thing.

Ms. Dixon told the Committee that her client was going to the Neurology Clinic at San Francisco General. She showed the Committee a slip of paper for an appointment on May 19th, and stated that it would cost her client $1,000 to obtain a detailed record statement from the clinic, as the staff there doesn't have the time to do it. She said she could produce a sheet that shows his entry to the hospital and his appointment for May 19th.

Commissioner Metwally asked Mr. Hechavarria how often he has seizures. Mr. Hechavarria replied he did not know, that it just happens suddenly, that he has had them since he was eighteen years old. The Commissioner

Continued.....

asked him how often he had the seizures in 1985. He responded that it was more than once but did not know how many.

Inspector Brown testified that he witnessed him have a seizure in 1985 when he got angry with street artist June Richard; she had said that he had pulled down his pants in front of her, and he got angry and was about to hit her with his fist when Brown, who was in his car, yelled at him and he fell to the ground, in a seizure. Mr. Brown went on to say that in 1986 Mr. Hechavarria swung his chair at Brown, and artist Sherrie Tatum stopped him. He did not have a seizure at that incident.

Commissioner Metwally asked Mr. Hechavarria if he ever injured himself when he has had a seizure on the street. He said he had not.

Commissioner Hanson concluded that Mr. Hechavarria had attempted to assault another artist. Commissioner Metwally agreed and said that the act falls under the category of disorderly, improper and hazardous conduct of business. Commissioner Hanson said there was a preponderance of evidence which supported the charge.

Commissioner Hanson moved that it be found that Mr. Hechavarria had violated the Street Artists Ordinance by conducting business in a disorderly, improper and hazardous manner, specifically by attempting assault; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson stated that it was a serious matter when a street artist attempts to attack another, no matter what the circumstances are, and that it called for automatic revocation. She said she did not feel that the violent behavior brought on by a seizure was reason to excuse the incident. Commissioner Metwally added that they were not certain that the violent behavior was part of the seizure; it preceded the seizure. The Commissioners questioned whether a period of time should be allotted to observe Mr. Hechavarria in a treatment program, or revoke his certificate.

Commissioner Metwally moved that Mr. Hechavarria be required to submit to the Program Committee, at its meeting of June 16, 1987, a written statement signed by a doctor that he is under an ongoing medical treatment program aimed at stopping violent seizure behavior; and that should Mr. Hechavarria fail to produce such statement, his certificate shall be revoked, as provided by Section 24, Part III of the San Francisco Municipal Code. The motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Hanson asked Ms. Dixon to write such a request to a doctor on her client's behalf; Ms. Dixon said she would do so. Commissioner Metwally asked Mr. Lazar to notify Ms. Dixon in writing of the Arts Commission's adoption of this recommendation, and to enclose a copy of the Program Committee minutes, and to send it return receipt.

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C. Amy Dong. Alleged violation: exceeding display length regulation. Program Director Lazar submitted the Inspector's report and comments that after "more than three warnings to Mrs. Dong that she have her earring carousel on the board I allowed her as a work area to string beads and work, she displayed the earring carousel on the board, resulting in her display exceeding 4' " in length. The Inspector had issued her a notice of violation on August 25, 1986, and on the following day, August 26, for the same violation. Mrs. Dong, in turn, had written a letter to Mr. Lazar, stating that she had done "this on purpose so I can get your attention on the fact that Mr. Brown only concerns himself with squeezing and display size" and "overlooks the most important factor ... which is controlling vendors fom selling ready made merchandise (i.e. brass and nicklesilver collars) at a ridiculously low price. ..."

Mrs. Dong told the Committee that she had shown Mr. Brown the handmade brass collars she makes and the commercially manufactured collars obtained from stores. Her daughter Nancy stated that her mother knew the rules, that she did it on purpose to be heard, that she had written letters, called the Program Director, but the Program would not take notice.

Commissioner Hanson stated that there was agreement on both sides that Mrs. Dong had been in violation. Commissioner Metwally moved that it be found that Mrs. Dong had violated the Street Artists Ordinance by exceeding the display length regulation; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Hanson moved that Mrs.Dong's certifiate be suspended for the three-day weekend of May 29 through May 31; the motion was seconded by Commissioner Metwally and unanimously approved.

Mrs. Dong was told by the Committee that if she committed the same violation again, the Commisson's recently adopted standard penalties would apply, and she would receive a three-week suspension. Nancy Dong said that her mother requested that she be given a warning instead of the three-day suspension. Commissioner Metwally responded that she had already received warnings, and that she was entitled to appeal the recommendation.

II NEW BUSINESS

Request by former certificate-holder Todd Strong for priority in issuance of new certificate. Todd Strong - Certifiate #3194 expired March 24, 1987; his request received by Program on April 20, 1987. Commissioner Hanson moved that Mr. Strong's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

The meeting adourned at 5:30 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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4/2/87
Special

THE ARTS
COMMISSION
OF SAN FRANCISCO

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STREET ARTISTS PROGRAM COMMITTEE

SPECIAL MEETING

Thursday, April 2, 1987
Main Library-Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

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MAY 1 1987

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M I N U T E S

Commissioners present: Hanson and Metwally

Commissioner Hanson, Chair, called the meeting to order at 3:39 p.m..

MAYOR
Dianne Feinstein

COMMISSIONERS
Jacqueline Nemerovski
President
Robert LaRocca
Vice President
Vernon Alley
Timothy Duncan
Stanley Eichelbaum
Jo Hanson
William Paterson
Anna-Marie B. Metwally
George T. Rockrise
Peter Rodriguez
Roselyne C. Swig
Felix M. Warburg

EX OFFICIO MEMBERS
Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

I HEARING ON ALLEGED VIOLATIONS

A. Fernando Hechavarria (hearing continued from February 11, 1987 meeting). Alleged violations: (1) display of items not of the artist's own creation and not in accord with criteria; (2) improper conduct of business; (3) attempt of assault on a street artist.

Program Director Lazar reported on the City Attorney's clarification with regard to questions raised by the Committee at Mr. Hechavarria's previous hearing. Mr. Hechavarria is subject to epileptic seizures of which he told the Committee he had no memory. The Committee had expressed concern over the Commission's continued sponsoring of a person on the streets who had attempted assault and had threatened the Art Inspector, and had stated that his behavior may not be under his control. The Commissioners had asked Mr. Lazar to inquire as to whether it were possible to suspend the certificate indefinitely, until Mr. Hechavarria could produce medical evidence that he would be able to control himself on the streets and not be a threat to the Inspector, other artists, or the public. Deputy City Attorney Boyajian clarified that there is nothing in the street artist ordinance that can "condition" a certificate or suspend it indefinitely; the Arts Commission has no authority to place conditions on suspensions. The Commission is empowered to adopt rules and regulations to manage and enforce the Street Artists Program, and is obliged to follow the rules and regulations which are the penalties of suspension or revocation of certificate.

Commissioner Metwally read from an excerpt of Ms. Boyajian's February 1, 1983 letter to Mr. Lazar, answering the question of whether the Commission may suspend or revoke a certificate of an artist who has assaulted the Art Inspector, another artist, or any person at the artist's sales location: "Yes. The Art Commission is expressly empowered to suspend or revoke the certificate of any street artist after a public hearing for good cause shown. In addition, the Commission is specifically empowered to suspend or revoke a street artist's certificate when, after public hearing,

Continued.....

it appears that the street artist is conducting his or her business in a "disorderly, improper or hazardous manner." Part III, Section 24, supra. ..."

Ms. Kate Dixon, attorney for Mr. Hechavarria, told the Committee that a charge against her client was made at the Hall of Justice and that the authorities were considering as to whether they would proceed against him. As the charge involved misdemeanors, she said, her client could not speak, as his testimony could be used against him. Any admission, she said, no matter where it was given, could be used in a criminal proceeding. She asked that the Committee postpone their hearing of the second and third charges against Mr. Hechavarria until the District Attorney makes his determination, and that the Committee proceed to hear only the first charge.

Commissioner Metwally said she saw no problem in waiting for the hearing on the other two charges and proceeding with the first.

Street artist John Bass informed the Committee that he had filed one of the charges against Mr. Hechavaria, the charge dealing with the attempted assault. The other two people, he said, who had instituted a complaint against Mr. Hechavarria's alleged indecent exposure in public had not filed that charge with the Police.

Commissioner Metwally asked that the Committee proceed with the first charge, and have the other people testify on the other charges later.

Mr. Lazar identified various items in the photograph taken by the Art Inspector, of Mr. Hechavarria's display, showing alleged commercially manufactured earrings, money clips, brass key-ring fobs, metal buckles with stones, and a six-pointed engraved "Wells Fargo" badge/buckle.

Mr. Hechavarria, through an interpreter brought by Ms. Dixon, answered the Committee's questions. He stated that he remembered displaying the items shown in the picture, and that he made everything that was shown. He said he did not buy them from any store or from anyone else. He made the earrings, the key chains, etc. He showed the Committee a rough-cut, unpolished six-pointed metal badge, as well as a six-pointed engraved "Wells Fargo" badge. He said he cuts the metal and engraves the words. He also said he cut the stones and set them in the other buckles.

Street artist Alfred Gamarra told the Committee that the Inspector deliberately uses Mr. Hechavarria as a "target" and does not cite other artists. He also said the key chains are so easy to make that anyone can make them; and that he taught Mr. Hechavarria to make the items. He said he himself has made key rings with him, and that he taught him how to make money clips and bangles. He said he met him at the Wharf years before when Mr. Hechavarria was shining shoes, and Mr. Gamarra had felt he should apply for a street artist permit. He said that at Mr. Hechavarria's screening of wares, he had to speak for Mr. Hechavarria because the Advisory Committee had not wanted to give him a permit. He received his permit in 1985.

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Commissioner Hanson asked Mr. Hechavarria how he made the "Wells Fargo" star. He replied that the cuts the metal first; then he has an engraving machine and he engraves everything. The machine with a motor is at the shop; he engraves the letters and everything. Commissioner Hanson asked him if it was free-hand engraving and how he controls it. He replied that he controls it by hand, and that it has a needle that is controlled when he controls the machine.

Commissioner Metwally noted that the two badges were different in metal thickness. Mr. Hechavarria replied that one is eighteen gage, the other is twenty gage.

Mr. Lazar stated that he could produce expert witnesses - street artists - who could give the addresses of the outlets where the "pre-stamped badges" are produced.

Commissioner Hanson asked Mr. Hechavarria how he made the sculptures cable-car key fob which appeared in the Inspector's photo. Mr. Hechavarria stated that he had to buy sand, that they had a mold at home, the mold was made out of bricks, and the bricks have to be closed very tightly. The molten metal is put inside, then taken out and put in liquid acid, then placed in water and polished. They sell for $8.

Mr. Lazar told the Commissioners that the Advisory Committee's criteria do not allow for commercial molds.

Commissioner Hanson stated that, in her opinion, Mr. Hechavarria did not make the items, but that it was necessary to have testimony from some expert witnesses. She also stated that she felt the "stagecoach" engraved on the metal badge could not have been made from the plexiglass design submitted by Mr. Hechavarria.

Commissioner Metwally moved that the hearing on all three charges against Mr. Hechavarria be continued; the motion was seconded by Commissioner Hanson and unanimously approved.

II NEW BUSINESS

A. Requests by former certificate-holders for priority in issuance of certificate:

(1) Kathy Wilcox - Certificate #3072 expired March 4, 1987; her telephone request was received by the Program on March 19, 1987. Commissioner Hanson moved that Ms. Wilcox's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

(2) Martin Butschek - Certificate #2328 expired December 28, 1986; his telephone request was received March 24, 1987. Commissioner Hanson moved that Mr. Butschek's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

Continued.....

(3) Hung Tran Minh - Certificate #3018 expired February 27, 1987; his request was received March 25, 1987. Commissioner Hanson moved that Mr. Minh's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

The meeting adjourned at 4:35 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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THE ARTS
COMMISSION OF SAN FRANCISCO

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STREET ARTISTS PROGRAM COMMITTEE

May 19, 1987
Main Library-Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

M I N U T E S

Commissioners present: Hanson and Metwally

Commissioner Hanson, Chair, called the meeting to order at 3:35 p.m.

MAYOR
Dianne Feinstein

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Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

I HEARING ON ALLEGED VIOLATIONS

A. Michael Rogers - Certificate #2044. Alleged violations: (1) Assaulting two street artists; (2) improper conduct of business/ harrassment, intimidation of street artists; (3) obstructing the duty of the Art Inspector.

Program Director Lazar reported on the incidents relative to the charges: (1) Mr. Rogers' alleged assault of artist A. B. Petrow on March 1, 1987, and Mr. Rogers' alleged assault of artist Mark Monsarrat on February 1 1986. (Mr. Lazar referred the Commissioners to the documents relative to these incidents, which had been mailed to the Commissioners: Police Incident Report Forms of March 1, 1987 and February 1, 1986; letter by Mark Monsarrat submitted to Mr. Lazar on March 4, 1987; letter by witness Larry Rosenbloom submitted on May 18, 1987.) (2) Mr. Rogers' alleged harrassment of artist Linda Stark on August 21, 1986, alleged harrassment of Mark Monsarrat on November 17, 1985, and alleged disruption of the artists' lottery procedure on July 5, 1986. (Mr. Lazar referred to the following supporting documents: letter by Linda Stark submitted to the Program on February 11, 1987; Art Inspector's Report of Alleged Violation submitted August 21, 1986; letter by Mark Monsarrat submitted March 4, 1987; letter by artists Susan Ciochetto, Karl Buhler, and Cindy Green dated December 29, 1986; letter by John Bass, Secretary, Lottery Committee, submitted July 31, 1986.) (3) Mr. Rogers' alleged obstruction of the duty of Street Art Inspector Brown on August 21, 1986. (Mr. Lazar referred to the Inspector's Report of Alleged Violation submitted August 21, 1986; letter by Deputy City Attorney Judith Boyajian, dated February 1, 1983, regarding Arts Commission jurisdiction in cases of obstruction of staff duty and cases of assault.)

Mr. Lazar stated that Mr. Rogers had been notified to appear before the Program Committee on May 19th. On the morning of the hearing, Mr. Rogers came to the Program office to renew his certificate. After the renewal was completed, he handed the Program Director a sealed envelope addressed to the Program

Continued.....

Director and a sealed envelope addressed to the Commission's Director. He left the office before the Program Director could open the envelope and respond to Rogers' letter inside which requested postponement of his hearing. Mr. Lazar submitted the letter to the Commissioners; the letter stated that Rogers had been given less than ten days to prepare his defense, that he had received his notice on May 10th, that his lawyer was unable to attend the May 19th hearing due to commitments. The Committee noted that Mr. Rogers was not present, and called upon Deputy City Attorney Boyajian for advice on whether to proceed in his absence.

Deputy City Attorney Boyajian stated that Mr. Lazar had reported the morning incident to her and she had advised him to attempt to telephone Mr. Rogers and to have the Art Inspector attempt to locate him in the street artist areas, in order to inform him that he was required to appear at the hearing with his request, as it is the authority of the Program Committee - and not the Program Director - to cinsider and grant a continuance of his hearing. The Deputy City Attorney stated that, in her opinion, it would not be an abuse of discretion to proceed in his absence, as he did not request a continuance until the day of the hearing, and given the number of witnesses present at the hearing who were prepared to give their testimony.

The Commissioners decided to proceed and to submit their recommendations to the full Commission. Mr. Lazar was asked to call upon the plaintiffs and the witnesses for their testimony. The Commissioners stated that they would take evidence on each charge and consider each charge separately.

1) Mr. Rogers alleged assault of A. B. Petrow on March 1, 1987, and Mark Monsarrat on February 1, 1986. A. B. Petrow told the Commissioners he did not wish to testify at this time, upon the advice of the Police inspector handling the criminal charge against Mr. Rogers. Deputy City Attorney Boyajian informed the Commissioners that she had spoken with Police Inspector Lucas who told her that she had advised Mr. Petrow wait until the criminal proceeding was completed before giving testimony in the administrative proceeding, due to the possibility of confusion in testimony that could arise. Ms. Boyajian stated that the administrative proceeding is totally separate from the criminal proceeding, that the Commission could proceed, if it so chooses, despite a respondent's request for postponement; in this case, however, it is the complaining witness requesting postponement of giving testimony, and, as such, the Commission could accommodate him.

   The Committee heard testimony from witnesses David Samuel and Kirk Turner. According to the testimony, Michael Rogers, alias Nicholas Quirarte, approached Petrow's display with belligerance, Petrow asked him to leave, Rogers hit him with his left hand - a "sucker punch" on the face - asked him if he wanted "some more", and left.

Continued.....

The Committee heard testimony from Mark Monsarrat and witness Larry Rosenbloom, with regard to the February 1, 1986 alleged assault on Monsarrat. Rogers approached Monsarrat's display, afte having no contact with him for several months, and started to denigrate Monsarrat's craft; Rogers' wife Claudia attempted to intervene; Rogers threatened to "bash" Monsarrat's "head in"; Monsarrat drew the threat to the people around them, packed up his display, found Rogers later at another location, exchanged words, Rogers hit him about the face and mouth; at no time did Monsarrat hit him. Monsarrat filed a Police report and went to Central Emergency room.

2. Mr. Rogers' alleged harrassment of Mark Monsarrat on November 17, 1985. Mark Monsarrat, David Samuel, and John Bass testified. The following points were made: Mr. Rogers disruped the business of six artists for forty-five minutes, by shouting profanity about the craft and persons related to Monsarrat; prior to the incident, Rogers was very vocal about people passing laws in the Street Artists Program, and was abusive at the lotteries about this issue; this was not the first time he had openly cursed Monsarrat; during his tirade on November 17th, business was very poor for the artists in the immediate vicinity.

Mr. Rogers' alleged harrassment of Linda Stark on August 21, 1986. Linda Stark, A. B. Petrow, Susan Ciochetto, and Art Inspector Brown testified. The following points were made: Ms. Stark had upheld a rule of the lottery in reference to Mr. Rogers using his wife's selling space and alowing another artist to use the space also; Ms. Stark received a screaming tirade from Rogers, poking his finger in her face; Rogers told customers that Ms. Stark was trying to steal his wife's space; onlookers turned around; when Inspector Brown appeared, Rogers shouted profanity at both Brown and Stark, the Inspector tried to get him to stop, had to write up a violation notice; Rogers finally left; later he and his wife tried to divert Ms. Stark's attention by honking their car horn loudly at her display; he harrassed Ms. Stark previously on several occasions, and openly displayed his resentment of artists who work on committees working with the Arts Commission; when Ms. Stark sat on the committee helping to hire a new Art Inspector, Rogers called her at home and tried to persuade her to not recommend hiring an ex-military officer (Wallace Brown) of whom he said would be "a lifer" in the Program and urged her to recommend a woman who would wind up quitting in eighteen months; after Mr. Brown was hired and had to enforce the illegal practice of "squeezing" (setting up displays between legal spaces), Rogers told many people that he held Ms. Stark and Mr. Monsarrat responsible for his loss of income because he could no longer sell as often as before; when Ms. Stark expressed her support of rescinding the veteran's priority in street artist certification, Rogers harrassed her over the telephone at home; on the evening of August 21,1986, Rogers and his wife Claudia Hart were identified by a witness as vandals and defacers of a store owned by friends of Ms. Stark - a Police report was made, the vehicle used was owned by Rogers, Inspector Lindberg of the Hall of Justice told the store owners that there was sufficient evidence in this incident for the Arts Commission to use in its hearing on Rogers; during 1985, Rogers

Continued.....

accused Susan Ciochetto, a New Zealander, of being an illegal alien and would shout obscenities at her.

3. Mr. Rogers alleged obstruction of duty of Art Inspector on August 21, 1986. Art Inspector Brown and A. B. Petrow testified and made the following points: When Mr. Brown was talking to Ms. Stark after her incident with Rogers, Rogers came up to them and proceeded to shout at the Inspector to "write me up - I didn't do anything!" He shouted obscenities at the Inspector, whereupon Brown wrote the violation notice; Rogers refused to accept the notice (Brown later handed it to Rogers' wife); afterward, when Brown approached Petrow to verify that Petrow had observed the incident, Rogers came by and hollered at both of them.

After receiving the testimony, Commissioner Metwally read an excerpt from Deputy City Attorney Boyajian's February 1, 1983 letter describing the Arts Commission's jurisdiction in cases of street artist assault, improper and hazardous conduct of business, and obstruction of duty of Commission staff. The Commissioner emphasized the letter's clarification that the Commission had the power to suspend or revoke "for good cause shown."

Commissioner Metwally moved that it be found that Michael Rogers had assaulted two street artists and that good cause was shown to recommend revocation of his certificate, and that his certificate be revoked; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Hanson moved that it be found that Michael Rogers had conducted business in a disorderly, improper and hazardous manner by harrassing and intimidating street artists, that good cause was shown to recommend revocation of his certificate, and that his certificate be revoked; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson moved that it be found that Michael Rogers had obstructed the duty of the Art Inspector, that good cause was shown to recommend revocation of his certificate, and that his certificate be revoked; the motion was seconded by Commissioner Metwally and unanimously approved.

II REQUESTS FROM APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Rosa Maria Rocha da Silva - request for postponement of screening until October, 1987. Commissioner Metwally moved that Ms. da Silva's request be approved; the motion was seconded by Commissioner Hanson and unanimously approved.

B. George Boucher - request for postponement of screening until May, 1988. Commissioner Metwally moved that Mr. Boucher's request be approved; the motion was seconded by Commissioner hanson and unanimously approved.

III REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

Continued.....

A. Paul Smith - applied June 12, 1978; was notified for screening on July 21, 1980 (his letter was returned unopened); his request for screening was received by Program on May 6, 1987. Commissioner Hanson moved that Mr. Smith's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

IV GOALS FOR STREET ARTISTS PROGRAM; LIAISON COMMITTEE RECOMMENDATIONS

Program Director Lazar reported that Liaison Committee Member Dennis Klein and he had been meeting with various merchants and hotel managers of the downtown area whose businesses may be impacted by additional street artist spaces. Specifically, Mr. Klein and Mr. Lazar were requesting that fifteen of last Christmas's temporary spaces be made permanent - eight spaces at the cablecar turnaround at Market and Drumm Streets, five spaces on the west side of Stockton Street (Post to Sutter) adjacent to the Hyatt Hotel, and two spaces on Post Street, Powell to Stockton, adjacent to Qantas building. Mr. Lazar said that so far the merchants had not objected, but that if there were those who would, the adjacent spaces would be withdrawn voluntarily from the list, prior to submission to the Board of Supervisors.

Commissioner Hanson moved that the proposal to make fifteen of the Christmas, 1986 temporary spaces into permanent spaces be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

V NEW BUSINESS

Street Artist Robert Clark informed the Committee that he recently found out that the City Attorney's office had made an agreement with the Longshoremen's Union and the vendor-tenants of the Longshoremen's parking lot to allow the vendors to continue selling their wares on the lot through the summer, until September 8th, and the vendors to pay the City $27,000 in fines for selling illegally. Mr. Clark said that the matter went before the Finance Committee and was approved by the full Board of Supervisors and was scheduled to go before the Board for a second reading next week. Mr. Clark said that neither the street artists nor the Arts Commission had been informed of this, and that he was requesting the Commission to contact the Supervisors of the Finance Committee to have the matter referred back to the Committee. He said he wanted to see the artists and the Commission have the opportunity to to state publicly that they do not want to see the City condone an illegal activity by allowing the vendors to continue selling through the summer.

Program Director Lazar volunteered to telephone each of the Supervisors of the Finance Committee; Commissioner Hanson asked that the artists attending call them also and to call Nancy Walker who has been actively involved with the street artists; Commissioner Metwally said she would look into the matter with the City Attorney's office. The meeting adjourned at 5:10 p.m.

Respectfully submitted:

Howard Lazar Lazar

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STREET ARTISTS PROGRAM COMMITTEE

June 16, 1987
Main Library-Civic Center
Lurie Room
Larkin and McAllister Streets
San Francisco, California

M I N U T E S

Commissioners present: Hanson

Commissioner Hanson, as a Committee-of-One, called the meeting to order at 3:35 p.m.

I REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Franklin Melton - applied December 5, 1983; was notified March, 1986, for screening of his wares, and did not respond to notice. On June 12, 1987, he wrote to the Program for priority screening and stated that he had moved several times and did not receive the notice. Commissioner Hanson said she would recommend to the full Commission that Mr. Melton's request be approved.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Malen Leung - Certificate #2369 expired May 2, 1982; Ms. Leung's request for priority was received by the Program on April 29, 1987. Ms. Leung had written that she had had to leave the Program in 1982, due to serious headaches from hypertension; she had gone to Singapore to stay with her sister and undergo "Chinese medicine treatment";she returned to San Francisco after her street artist permit had expired seven months previously, and had rented space from the Longshoremen's parking lot since then to sell her wares. Now that, through legal action, the Longshoremen Union was discontinuing such usage of their parking lot, Ms. Leung was appealing for priority in issuance of a new street artist certificate. Ms. Leung was not present at the Program Committee meeting; she had sent a letter explaining that she could not find the doctor who had diagnosed her hypertension in 1982. Commissioner Hanson noted that Ms. Leung's condition had not presented her from selling her items through another channel. She said she would recommend to the Commission that Ms. Leung's request be disapproved.

B. Charlotte Webber - Certificate #130 expired December 4, 1986; Ms. Webber's request for priority was received by the Program on May 20, 1987. Ms. Webber told Commissioner Hanson that she had inadvertently let her certificate lapse; she thought she had last renewed it for a year, from September, 1986 through September, 1987; she wasn't using the certificate, and so did not look at its expiration date.

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She had been a street artist in the Program since July 4, 1984, and had never failed to renew her certificate until this time. Commissioner Hanson said she would recommend to the Commission that Ms. Webber's request be approved due to Ms. Webber's duration in the Program and to the relatively short amount of time in which Ms. Webber contacted the Program after the three-month period allotted to former certificate-holders to submit their requests.

III REQUEST BY CERTIFICATE-HOLDER TO APPEAL ADVISORY COMMITTEE RECOMMENDATION OF DENIAL OF CERTIFICATION OF FAMILY UNIT MEMBER

A. Robert English (Certificate #3149). Program Director Lazar explained that, on May 26, 1987, certificate-holder Robert English requested the Advisory Committee of Street Artists and Craftsmen Examiners to recommend that certificate-holder Phillip Schaffer (Certificate #2564) be certified as a member of Mr. English's family unit, helping to produce Mr. English's wire bracelets. The Advisory Committee denied the request on the following grounds: (1) Mr. Schaffer's role in the creation of Mr. English's item did not satisfy the Arts Commission's requirement that a "handcrafted item ... consist of components predominantly created or altered in form by the street artist or craftsperson" (Arts Commission Resolution #1981-984); and (2) Mr. Schaffer's role in the creation of the item did not satisfy the definition of "Handcrafted Item" in Section 2401(b) of Ordinance 41-83: "An item predominantly created or significantly altered in form by the street artist." Mr. English was appealing the Advisory Committee's recommendation.

Mr. English stated that his attorney had declined to attend today's meeting and had told Mr. English that they would appeal the Program Committee's decision before the Board of Permit Appeals. Mr. English went on to say that the handcrafted definition does not pertain to "who does what," that if he came before the Committee alone, then the definition would apply. However, he said, under Section 1 (d) of Ordinance 41-83, there is provision for "two or more persons jointly engaged in the creation or production of an art or craft item"; and Section 4 specifies "that the art or craft item for which the applicant seeks certification is his or her own creation or those of his or her family unit." Mr. English said that two people cannot work on the same aspect of the piece, no more than two people washing a car should wash the same fender. He also stated that his work is copyrighted, and that, under Federal law, he is not obligated to teach or to show anyone how to make his craft. According to his attorney, he said, that was sufficient.

Commissioner Hanson asked Mr. English to demonstrate the making of his craft - specifically, what part he works on and what part Mr. Schaffer would work on. Mr. English said that, because he had not brought his board, he could only deomonstrate the last half of creating the item. He demonstrated reducing the wire "global"

Continued.....

shape to its appropriate size for an arm bracelet. It became small enough to be closed; the next step was the insertion of a "twisting tool" to tie up the ends. The item, he said, could now be sold as a bubble bracelet, or as a bangle, or as a ball. He added that what Mr. Schaffer would do - the tieing of the ends - takes as long or longer than the weaving of the item itself.

Advisory Committee members Ed Poskus and Sherri Miller showed the Commissioner the photos in Mr. English's file of his screening. Mr. Poskus stated that his Committee had concluded that all Mr. Schaffer was doing was tieing up the ends of the bracelets.

Mr. English stated that, prior to attempting to add Mr. Schaffer as a family unit member, another street artist, Patricia Flynn, had been approved by the Advisory Committee as a unit member performing the same step that Mr. Schaffer would be doing. Mr. English said that the Arts Commission had received criticism about the numbers of members in various family units, and that the Advisory Committee was responding to the issue by looking for any reason available to turn down unit-member applicants.

Mr. Poskus said that his Committee had asked Mr. Lazar to notify the other unit member, Ms. Flynn, to return at a screening for re-consideration or further verification of her role in the production of the craft. He went on to say that his Committee did not feel that Mr. Schaffer was predominantly altering the item; rather, it was as if the item had been given to him - like a kit - and he was asked to finish it. His Committee had suggested that Mr. English have both Mr. Schaffer and Ms. Flynn return and demonstrate making the piece from beginning to end, which would give the Advisory Committee greater reason to view the two unit members as a part of the creative aspect of the craft.

Advisory Committee member Sherri Miller said that Mr. Schaffer's role in sizing the bracelets and tieing their ends was no different than the role of someone who merely punches holes in someone else's created belt in order to fit a customer's waist.

Commissioner Hanson said to Mr. English that while he had created the design, the people he was allowing to work on the items were not involved in the creation of the items but were fulfilling the role of an assistant. While the "assistant" performed half the work in terms of time, Commissioner Hanson did not feel that the time element pertained to the creation of the items.

Mr. English said he kept the creation part a secret, under the advice of his attorney. While he could teach his two unit members how to weave the design, which would satisfy the Advisory Committee, his attorney had said he did not have to do so, that he was protected by Federal law, and that it was bad business to show people how to make the craft.

Continued.....

Commissioner Hanson interpreted the spirit of the definition of "family unit" as members being equal in the design input and partners in the creation of the item.

Advisory Committee member Ed Poskus said that if Mr. Schaffer were to add another element to Mr. English's piece, as, for example, beads, this would be a way for him to fulfill the requirement of significantly altering the form of the item. Program Director Lazar stated that, another way of fulfilling the requirement would be if Mr. Schaffer was involved in the weaving of the item.

Commissioner Hanson summed up three ways in which Mr. Schaffer could comply with the definitions and be certified as a family unit member: (1) Demonstrate proficiency in making the entire craft; (2) Participate in the weaving aspect of the craft; or (3) Add his own element(s) to the craft - for example, add paint, or add beads. The Commissioner asked Mr. English if he would be agreeable to any of these courses.

Mr. English stated he would not be, that the first two courses were advised against by his attorney, and the third course would change his craft.

Commissioner Hanson said she would recommend to the full Commission that the Advisory Committee's recommendation to deny Mr. Schaffer's certification as a unit member be upheld. She invited Mr. English to come to the Commission meeting and present his case, and informed him that the meeting would be held on the first Monday of July - July 6th - at 3:00 p.m. in the Commission Room of the Main Library. (Mr. English wrote it down.)

IV HEARINGS ON ALLEGED VIOLATIONS

A. Fernando Hechavarria (Certificate #3045). (On May 4, 1987, the Arts Commission resolved that Mr. Hechavarria, who had been charged with attempted assault, be required to submit to the Program Committee, at its meeting of June 16th, a written statement from a physician that he was in an ongoing medical treatment program aimed at stopping violent seizure behavior; should he fail to produce such statement, his certificate would be revoked.) Mr. Hechavarria told Commissioner Hanson that he did not have the statement with him, that his doctor had given it to him, and he, in turn, had given it to his attorney who was not present. During the meeting, he had gone to the attorney's office, but the attorney was not there.

Commissioner Hanson directed Mr. Lazar to call the attorney tomorrow and request a copy of the letter; if the attorney refuses to furnish it, she said, Mr. Lazar should call San Francisco General Hospital for a copy. The matter could then be taken up at the Committee's next meeting or at a special meeting.

Continued.....

B. Terry Harms (Certificate #2925). As the meeting had used up its scheduled time allotment, Commissioner Hanson stated that the hearing on Terry Harms' alleged violations would be put over to the next meeting.

The meeting adjourned at 5:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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SF Civic Center

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, September 9, 1987 - 3:30 p.m.
Main Library-Civic Center
Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco, California

NOTE: day and date of meeting

A G E N D A

I HEARING ON ALLEGED VIOLATIONS

A. June Richard - Certificate #2608. Alleged violations: (1) Assault; (2) Improper conduct of business.

II PROGRAM DIRECTOR'S REPORT ON CITY ATTORNEY OPINION RE: PROGRAM USAGE OF UNUSED CERTIFICATE FEES; HEARING ON NEW CERTIFICATE FEE

III RECOMMENDATION FROM ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS: POLICY ON EXAMINING "DECORATED APPAREL" (SILKSCREENED, PAINTED, APPLIQUED, ETC., CLOTHING)

IV APPROVAL OF NEW MEETING DAY FOR STREET ARTISTS PROGRAM COMMITTEE: 2ND WEDNESDAY OF THE MONTH

V NEW BUSINESS

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, October 14, 1987
3:30 p.m.
Dept. of Public Health Building
101 Grove Street (at Polk Street)
Room 300 (auditorium)
San Francisco

NOTE:
NEW LOCATION

A G E N D A

I HEARING ON CITY ATTORNEY OPINION RE: PROGRAM USAGE OF UNUSED CERTIFICATE FEES; HEARING ON NEW CERTIFICATE FEE

II HEARING ON ALLEGED VIOLATIONS

(4:00) A. June Richard - Certificate #2608. Alleged violations: (1) Assault; (2) Improper conduct of business.

III REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Bruce Marten - request for postponement to July, 1988.

B. Lou Kessler - request for postponement to August, 1988.

IV NEW BUSINESS

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 25, 1987
3:30 p.m.
Main Library-Civic Center
Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco, California

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A G E N D A

I HEARING ON ALLEGED VIOLATIONS

A. June Richard - Certificate #2608. Alleged violations: (1) Assault; (2) Improper conduct of business. (hearing continued from 10/14/87)

II REQUEST BY PROGRAM DIRECTOR FOR SUPPLEMENTAL APPROPRIATION OF $4,000 FROM UNUSED CERTIFICATE FEES FOR HALF YEAR OF OFFICE RENT, INCLUDING MOVING COST

III REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Bruce Martin and Andolie Williams - request for postponement to July, 1988.

B. Lou Kessler - request for postponement to August, 1988.

IV NEW BUSINESS

MAYOR
Dianne Feinstein

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, February 24, 1988
3:30 p.m.
Main Library-Civic Center
Lurie Room (ground floor)
Larkin and McAllister Streets
San Francisco, California

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A G E N D A

I REQUESTS BY APPLICANTS FOR POSTPONEMENT OF SCREENING

A. Jean B. Walters - requests postponement to summer, 1989.

B. Charles P. Rathbone - requests postponement to February, 1989.

II REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Joann Black - request from husband Jerry Black received 9/8/87; hearing rescheduled from 1/13/88.

III REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sandra Blenio - Certificate #1527 expired (prior to) 1980; request for priority received December 9, 1987; hearing rescheduled from 1/13/88.

IV APPEAL OF ADVISORY COMMITTEE FINDINGS

A. Edward Steneck (Certificate #2489) and Sharon MacDougall (Certificate #121) - appeal of 8/25/87 finding by Advisory Committee of disapproval of artists' usage of commercially manufactured pendants in beadcraft.

V PROPOSAL FOR AMENDMENT TO CERTIFICATE RENEWAL POLICY

The following proposal was submitted under "NEW BUSINESS" at the 1/13/88 Street Artists Program Committee meeting: "Any certificate renewed after the expiration date shall be valid for the appropriate time period commencing from the date of payment of the renewal fee."

VI NEW BUSINESS

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STREET ARTISTS PROGRAM COMMITTEE

April 13, 1988
Main Library-Civic Center
Commission Room
Larkin and McAllister Streets
San Francisco, California

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Commissioners present: Hanson

Commissioner Hanson, Chair, called the meeting to order at 3:35 p.m.

I REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Joann Black. Program Director Lazar stated that he had met with Mr. and Mrs. Black and that they withdrew their request.

II REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Alden Paez - Certificate #3401 expired March 2, 1988; his request for priority was received by the Program on April 5, 1988. Commissioner Hanson stated that she would recommend to the full Commission that Mr. Paez's request be approved.

III REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. George Boucher - request received by Program on April 8, 1988 for postponement of Mr. Boucher's screening until May, 1989. Commissioner Hanson stated that she would recommend to the full Commission that Mr. Boucher's request be approved.

IV CERTIFICATE FEE FOR 1988-89 BUDGET

Mr. Lazar referred the Commissioner to his memo which stated that, according to the staff's recent count of street artists, there were presently 566 artists in the Program - an increase over an earlier estimate of 500 - and that he was recommending the fee of Proposal III of six proposals he had drafted for increasing the fee. Proposal III reflected an annual fee of $198 ($38 above the present fee). The proposal (a) did not include the cost of office rent; (b) it utilized $7,000 from $20,000 of remaining unused fees (after 1987-88 budget usage) in order to offset the budget; (c) it left a balance of $13,000 unused fees for 1989-90; (d) it maintained the present number of street artists at 566; and (e) after there being no increase in fee for the past three years, the proposal increased the fee moderately by $38. The

Continued.....

usage of $7,000 - or roughly a third -of the unused fees accumulated since 1978 was based on the advice from the Controller's office to keep a balance of reserve money for emergency purposes.

Commissioner Hanson asked what guarantees there were to prevent the City from taking the unused fees money, as the City was looking for all the funds it could take money from. Mr. Lazar answered that, according to the City Attorney's office, the Street Artists Program fund, being a special fund, could not be part of the General Fund. Also, he said, it had been clarified that a special fund for an agency which issues permits could only be used by the agency to support the costs of issuance of the permits and could not be used for General Fund purposes.

Street Artist William Clark stated that, since the Program had the reserved (unused fees) money, the Program should use up all of this money in order to keep the fee as low as possible. According to his research, he said, when there is an unemcumbered balance in the special fund at the end of the year, and if the City has a deficit, the City may borrow that money from the Program's fund with the intent to pay it back in six months - which, under the present situation, may not be likely. Therefore, if the street artist money were diverted from its special fund, the fees could be raised even higher. Because of the seriousness of the situation, Mr. Clark requested that the Commission seriously consider spending all of the reserve money to offset the budget.

Street Artist Linda Stark agreed with Mr. Clark, citing the present situation of the City. She further stated that the Program used to have a great number of people who did not sell but who would hold onto their permits because it was inexpensive "insurance" for the year whenever they needed to go out and sell. As the fee goes up, however, Ms. Stark said that more and more of these people who "had been taking a back seat" will start to drop out of the Program and will, in turn, be replaced by newcomers who will take an active role in the Program, participating in the lotteries for selling spaces and "creating a tremendous crush on the spaces." The Program, she said, already has more people who have become active, and the present situation is "almost impossible" with every space on the Wharf being used now in the months of March and April. What will happen during summer? Ms. Stark added that, given the choice of a slightly increased fee or having more people in the Program, most of the artists she had spoken to have told her they preferred paying an increased fee; but this, she said, creates the problem of more inactive people dropping out as the fee increases. Since the Program does not have the authority to postpone screenings or institute a moratorium on the issuance of permits, Ms. Stark stated her concern that the fee increase be kept low enough to retain those artists who could afford to hang onto their permits for "insurance" and not sell at this time, and also that it be kept low so that the Program would not be forced into a position of having to screen extra people to make up for a deficit.

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Street Artist Dennis Klein referred to the Program's recent "atrition list" of artists who had relinquished their permits from September, 1987 through February, 1988; Mr. Klein had combined this list with the previous four lists, which had yielded a total of 103 dropouts. He said he found that 70 of these were so-called "inactive" artists in the past two years, and in the past year there were only two people out of the 103 names who were active. He recommended that the Commission adopt Mr. Clark's and Ms. Stark's proposal to spend all of the reserve money to offset the budget and thereby not put the Program under pressure to screen more people.

Mr. Clark submitted his copy of Mr. Lazar's fee proposals as amended with numbers written in by Mr. Clark, reflecting usage of the entire reserve of unused fees.

Ms. Stark stated that many people had submitted ideas to hear on cutting Program costs. One suggestion, she said, was to change the renewal procedure to have all artists renew at the same time of the year, prorate the permits, which would not require all the present office time for issuance or renewals; temporary part-time help could be hired for the month to handle issuance of all permits. Another proposal was to have a monthly or bi-weekly screening day and have the permits prorated; another proposal was to give all permits to the Art Inspector to take to the office for renewing which, according to the proposal, would trim the office hours. To this proposal, Mr. Clark stated that the City Charter provided that all offices be open five days a week all day. Another proposal, Ms. Stark said, was to have an answering machine to handle informational calls - this would cut down on personnel.

Commissioner Hanson said the Commission would look at all these proposals; however, she wanted the artists to know "that if ever an agency was overloaded, it's the Arts Commission, and there is no way to dump more work on these people who are already doing the work of two people, every one of them."

Mr. Clark said that, given the amount of money available to the Program, he wanted to see a low fee and retention of the same personnel. He stated further that if all the reserve money were used by the Program and there was a later need for money to cover an expense, there was no reason why the Program could not go to the Board of Supervisors and request a supplemental appropriation. He said that he had worked hard to make sure that the money was found so that it could be used.

Mr. Lazar clarified the advice given by the Controller to departments is to keep a reserve amount to cover roughly one month's operational expenses. Mr. Lazar had asked the Controller's office whether his proposal to use a third of the reserve money was prudent; the Controller's office had assured him that it was prudent and in keeping with the advice given to all departments.

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Commissioner Hanson clarified with the Program Director that to raise the fee would require a vote of the Board of Supervisors and not a vote by the electorate. All that the Arts Commission had to do was to submit a report/recommendation to the Controller as to what the fee should be in order to support the costs of the Program, no more nor less. The Controller than send his recommendation to the Supervisors. The Arts Commission requests the City Attorney to draft legislation providing for a new fee, and this is then taken up by the Supervisors.

Mr. Lazar clarified the reasons for the accumulation of the reserved unused fees: the years when the staff was temporary, and the Program not having to cover the costs of benefits; the years when the staff salaries were funded entirely by Federal EEA and CETA money; vacancies in certain staff positions, as the Art Inspector and the Certification Clerk (salary savings); savings in compensation for the Advisory Committee members who did not attend meetings.

Mr. Clark asked that the Program consider staggering the Advisory Committee members per meeting so as not to always have the full compliment of five members, but perhaps to have three - this would yield a savings.

Mr. Lazar clarified that there would be a savings from the present year due to the fact that the Inspector's position had gone unfilled for nearly three months and the fact that the Advisory Committee had been without two members.

Ms. Stark spoke of the problem of the time-gap in replacing a dropout with a newcomer - nearly a month and a half - which results in the Program either under-screening or over-screening applicants. Ms. Stark proposed a pre-screening to determine the number of new people who would be imminent in obtaining permits. She also pointed to the necessity of having more thorough screenings, more participation of Advisory Committee members on the streets (the committee, she said, did not seem to be in touch with the day-to-day workings of artists on the street), and the possibility of qualified street artists to be at screenings, offering advice to the Advisory Committee. Mr. Lazar responded that the door has always been open for this - but that it was seldom that artists would give their time away from selling to be at a screening. Ms. Stark said that artists would participate if they could receive compensation. She added that her Liaison Committee was working on a questionnaire to give to the artists, one of the questions being what the number of artists in the Program should be.

Commissioner Hanson said that she wanted understanding as to the reality of available converted space for the Program within the offices of the Arts Commission; not having to pay for rent would have a significant effect on the Program's budget. Further discussion on using more or all of the reserve money should be held at the next Program Committee meeting. She also stated that she had not re-applied to

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continue as an Arts Commissioner. This, she said, will mean Commissioners on the Program Committee will not have had as much experience as she has had with the Program, and would be a good opportunity to have a more active role of the Street Artists Liaison Committee, integrating it more with the Program Committee. She called for a timely submittal of proposals for this at the next Program Committee meeting. The Committee's continuity, she said, is going to rely on the street artists and on the Program Director.

Both Mr. Klein and Ms. Stark noted that some artists who drop out of the Program submit, and are granted, requests to obtain new permits without having to go to the end of the waiting list. This is due to the Commission's policy to consider those cases who submit their requests within three months after the expiration of their permits. These former certificate-holders then become added to the number replacing the dropouts. Ms. Stark asked that the Commission consider allowing three months to pass after a certificate expires, before counting the artist out.

Mr. Lazar responded that the Program could delay counting an artist out for three months but the Program would have to avoid dropping behind the required amount of fee collection. Ms. Stark asked that Mr. Lazar check into the possibility of screening people and having them wait in the wings for a time when they may be permitted to purchase their permits - that is, when they replace people who, after three months, are finally counted out of the Program.

Mr. Clark asked that the Commission resolve at its meeting in May to spend all of the reserve funds and then later decide on whether to pay or not to pay for office rent.

Commissioner Hanson noted that it was the position of the artists present that all the reserve money be used to offset next year's budget. She said that she felt the Program should use the money substantially, and that the reason she was not saying to use it up entirely was that she wanted to hear from Commission Director Claire Isaacs. She felt this matter should be calendared under "Committee Report" for the May 2nd Arts Commission meeting, that the artists should come to the meeting to speak on the issue, and that the Commission should resolve to use the reserve money either substantially or entirely.

Mr. Lazar stated that if all the reserve money were used for the upcoming year, the fee for the following year (1989-90) would simply be re-adjusted without the benefit of reserve money to offset it. If the Program did not have the reserve, the fee would have already been re-adjusted.

Commissioner Hanson proposed that she and Mr. Lazar speak with Director Isaacs and arrive at a recommendation for using the reserve money either substantially or entirely.

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Mr. Klein stated that he did not think that the artists would have a problem with having to pay $7,000 for office space for the Program. Commissioner Hanson stated that, before abandoning the idea of paying for office rent, her Committee should look into the progress of the proposal to restructure the Arts Commission suite, providing for meeting room space within the suite.

Ms. Stark stated that it was a suggestion of the Liaison Committee that if new office space for the Program is to be found, it be where the Program could be more accessible to the artists - as at Fisherman's Wharf.

Commissioner Hanson stated that it would be worthwhile to find corporate space that could be offered as pro bono rent.

V NEW BUSINESS

Mr. Lazar referred to a request recently received by the Program to allow a husband to put into the lottery his wife's number on occasions when, due to her pregnancy, she would be unable to attend the lottery. Mr. Lazar asked that both the Liaison and the Lottery Committees consider this matter and its effect, as a precedent, on the rest of the Program.

The meeting adjourned at 5:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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STREET ARTISTS PROGRAM COMMITTEE

May 11, 1988
Main Library-Civic Center
Commission Room
Larkin and McAllister Streets
San Francisco, California

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Peter Rodriguez
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Felix M. Warburg

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Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

Commissioners present: Hanson

Commissioner Hanson, as a Committee-of-One, called the meeting to order at 3:42 p.m.

I CANDIDATES FOR TWO POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

Commissioner Hanson reviewed the list of candidates which had been submitted by Program Director Lazar; these people had been interviewed by Commissioner Hanson and Mr. Lazar. The Commissioner stated that she would recommend to the full Arts Commission that the following persons (ranked in order of preference) be submitted as candidates for the Mayor's selection for two positions on the Advisory Committee:

For the position currently occupied by Mathew Porkola (new term to run from November 27, 1987 - November 27, 1989):

1. Mathew Porkola (incumbent) - leathercraft artist
2. Josie Grant - painter; printmaker; teacher
3. Jonathan Fisher - photographer; teacher

For the position vacated by Sherri Miller (new term to run from November 27, 1986 - November 27, 1988):

1. Josie Grant - painter; printmaker; teacher
2. Jonathan Fisher - photographer; teacher
3. Gay Roche - printmaker; painter.

II RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE

A. Questionnaire/Survey on Ballot Proposals. Art Inspector Wallace Brown explained that Liaison Committee Members Linda Stark and Dennis Klein had developed a questionnaire/survey to distribute to all street artists to see if they wish to go to the ballot for possible improvements of the Program. The survey, he said, will ask questions like "What is it that you would like to change in the Program?" "Do you want some mechanism to slow down the rate of licensing?" (this question, he said, due to

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the influx of new licenseholders at the lotteries, causing a "crunch" for spaces). Commissioner Hanson ascertained that the Liaison Committee was looking for a way to rationalize procedures, in fairness to everyone involved, so that all artists in the Program would have reasonable opportunity to make a living. The Commissioner added that this report on the Liaison Committee's survey required no action by the Commission at this time.

B. Amendment to Noon-Rule (space assignment) Procedures. Mr. Brown informed the Commissioner that this amendment had been approved for recommendation to the Commission by the Liaison Committee on April 27, 1988. Commissioner Hanson stated that she would recommend to the full Commission that the amendment be approved.

III REQUEST FROM FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Weston Rose - Certificate #3404 expired March 9, 1988; Mr. Rose's request for priority was received by the Program on April 21, 1988. Commissioner Hanson said that she would recommend that the Commission approve Mr. Rose's request.

IV NEW BUSINESS

Leavenworth Street/Portrait Artist Spaces. Street artist Keith Donube submitted a letter-statement on behalf of portrait artists who work in the spaces on Leavenworth Street; the letter countered a petition submitted by other artists to incorporate the Leavenworth spaces into the main Wharf Lottery. Mr. Donube stated that the petition was seeking to destroy the tradition on portrait artists on Leavenworth Street.

Art Inspector Wallace Brown clarified that, at the present time, portrait artists could enter the main Wharf Lottery (as well as their own for Leavenworth Street), while the other street artists could not enter the Leavenworth Street lottery which was reserved exclusively for portrait artists and cartoonists. Mr. Donube corroborated this by saying that the Leavenwirth lottery had been designed to rule out other crafts and preserve the Leavenworth spaces for portrait artists because of the lighting and weather conditions in that area.

Mr. Brown stated that there were three sketch artists who routinely enter both the Leavenworth and Wharf lotteries, and there was a set group of sketch artists who enter only the Leavenworth lottery. Mr. Donube, he said, belonged to the latter group. Commissioner Hanson ascertained that the artists who enter both lotteries are able to do so because the lotteries occir at different times. The Commissioner suggested that a possible solution would be for both lotteries to occur at the same time. Mr. Donube answered that his group was indeed requesting that their lottery be changed from 9:30 a.m. to 9:00 a.m. (the time of the Wharf lottery) so that artists would have to choose between the two lotteries. He said his group was also seeking the

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preservation of the tradition of restricting the ten Leavenworth Street spaces to portrait artists exclusively.

In answer to Commissioner Hanson's question, Mr. Donube said there were five portrait artists presently working and there would be a few others showing up on Leavenworth Street by summer. Mr. Brown stated that these artists were able to get their Leavenworth spaces almost one hundred per cent of the time. Mr. Donube stated that his group would be willing to relinquish the last five spaces of Leavenworth Street to other artists, after the first five spaces would be chosen by the portrait artists. Mr. Brown corroborated this by saying there is almost always four spaces on Leavenworth Street that are not used.

Commissioner Hanson noted that most street artists produce their work at home or in a studio, whereas the portrait artists produce their work in their street spaces. She noted further that when an artist's income is due to portraits, the artist cannot build up an inventory. She stated that she was sympathetic to maintaining Leavenworth Street as a portrait artist area so that tourists would know where to go for portraits. It was unfortunate, she said, that it is usually the case that a newcomer does not know where to find an artist doing a particular craft on a certain day. It seemed legitimate, she said, to keep the portrait artists in a predictable area. She felt that the Liaison Committee should be asked to consider the issue and attempt to reach an agreement with the portrait artists. She did not favor recommending anything to the Commission at the present time. She recommended that the issue be discussed at the next Liaison Committee meeting and the next Program Committee meeting, with recommendations from the Liaison Committee and the Program Director.

The meeting adjourned at 4:10 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director, Street Artists Program

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DIRECTOR
Claire N. Isaacs

STREET ARTISTS PROGRAM COMMITTEE

NOTE: New day of meeting for this month. → **Tuesday, June 21, 1988**
3:30 p.m.
Main Library-Civic Center
Larkin and McAllister Streets
San Francisco, California

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A G E N D A

I HEARING ON ALLEGED VIOLATIONS

A. Charles Crawford - Certificate # 3103. Alleged violations:
(1) Obstruction of duty and performance of staff (Advisory Committee);
(2) Conduct of business in disorderly, improper and hazardous manner.

II REQUESTS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Sultana Chisti - approved by Advisory Committee of Street Artists and Craftsmen Examiners on March 31, 1988, but failed to obtain certificate within ten-day period after screening, as per Arts Commission policy.

B. John F. McKenna - applied November 13, 1984, was notified for screening in July, 1987 but did not appear; requests to be screened next month.

III REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Oscar Vargas - Certificate # 3101 expired December 24, 1986; request for priority in issuanceof (new) certificate received by Program on June 6, 1988.

IV REQUEST BY APPLICANT FOR POSTPONEMENT OF SCREENING

A. Patricia LaCava - requests postponement of screening until February, 1989.

V REQUEST BY STAFF FOR AUTHORIZATION TO DESTROY RECORDS (FILES) OF FORMER CERTIFICATE-HOLDERS WHOSE CERTIFICATES EXPIRED FIVE (5) YEARS AGO OR LONGER

VI APPEAL HEARING BY DENNIS BUSTILLOS ON ADVISORY COMMITTEE'S CONDITIONS FOR APPROVING RAOUL NERI AS A FAMILY UNIT MEMBER

VII NEW BUSINESS

A Request by former certificate holder David Robinson for priority in issuance (certif. # 2823 expired 5/25/88)

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STREET ARTISTS PROGRAM COMMITTEE

Tuesday, July 19, 1988
Main Library - Civic Center
Commission Room
San Francisco, California

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EX OFFICIO MEMBERS
Presidents of the
Fine Arts Museum,
Library Commission,
Planning Commission,
Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

Commissioners present: Hanson, Metwally

Commissioner Hanson, Chair, called the meeting to order at 3:42 p.m.

I RECOMMENDATIONS FROM LOTTERY COMMITTEE AND STREET ARTISTS LIAISON COMMITTEE

Program Director Lazar reported that both the Lottery and Liaison Committees wanted to re-consider, and possibly amend, their recommendations regarding the "noon rule" and other space-assignment procedures. The Liaison Committee wished to temporarily withdraw their recommendations from the Program Committee agenda.

II REQUEST BY APPLICANT FOR PRIORITY IN ISSUANCE OF CERTIFICATE

Rebecca Wolford - applied December 27, 1984; was notified on August 3, 1987 for screening but did not respond; her request for priority was received by Program on June 24, 1988. Commissioner Hanson moved that Ms. Wolford's request be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

III REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Oscar Vargas - Certificate #3101 expired December 24, 1986; his request for priority is issuance of certificate was received by Program on June 6, 1988. (hearing continued from June 21, 1988) The Program Director stated that Mr. Vargas had written that he had had to give up his permit because of problems in both his feet, that he had been in so much pain that he could not sleep, and that in February of 1988, he had undergone surgery. This was supported in a letter from Mr. Vargas' doctor. Commissioner Hanson asked Mr. Vargas why he had not contacted the Program office from the time he left the Program to the present time. Mr. Vargas said that during this interim he did not know whether his ailment would get better or worse; it was only now, after the operation, that his condition had improved and he felt he could be able to work as a street artist again. The Commissioners related this case to other, precedented cases of medical reasons. Commissioner Hanson moved to approve Mr. Vargas' request; the motion was seconded by Commissioner Metwally and unanimously approved.

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Commissioner Hanson moved that the Program Director confer with the City Attorney's office as to whether the Arts Commission has the authority to adopt a policy to re-admit into the Street Artists Program any former certificate-holder who relinquished his or her certificate due to a medical reason; the motion was seconded by Commissioner Metwally and unanimously approved.

B. Zhenbin Feng - Certificate #2863 expired February 3, 1986; his request for priority was received by Program on June 24, 1988. Mr. Feng did not appear. No action was taken. The Committee asked that his request be re-scheduled.

IV HEARING ON ALLEGED VIOLATION

David Samuel - Certificate #2256. Alleged violation: assaulting former certificate-holder Nicholas Quirarte (Michael Rogers); complaint submitted by Claudia Hart. The Commissioners read a statement submitted by Mr. Samuel prior to the hearing. Claudia Hart, the street artist who had submitted the complaint, was not present; nor was Nicholas Quirarte, Ms. Hart's husband.

The Committee received testimony from Street Artists Katrina Broomall, Craig Cassin, Linda Pedersen,David Samuel, Eunice Rodriguez, Mark Monsarrat, John Bass, Dikran Knoble, and Kirk Turner. The Committee also heard testimony from Street Art Inspector Wallace Brown. (For a detailed summary of the testimony and the Committee's findings, see "APPENDIX" to these minutes.)

Commissioner Metwally summarized the findings, as follows: there was one witness who, by letter and telephone, alleged that David Samuel assaulted Nicholas Quirarte, but the witness was not present; there was one witness who viewed the middle of the middle of the fight (but did not see who started it); and there were several witnesses whose testimony established Quirarte's character and style of behavior with people. The Commissioners concluded that there was not enough evidence to find that Samuel had assaulted Quirarte.

Commissioner Metwally moved that it be found that there was insufficient evidence to support the charge, and that the charge of assault by David Samuel be dismissed; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Hanson moved that the Arts Commission proceed to determine a legal way to restrict the presence of Nicholas Quirarte from any street artist location, including any location where a street artist lottery for spaces is held, during street artist business hours; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson moved that it be the policy of the Arts Commission to expect street artists to walk away when violence is threatened, to do what is necessary to avoid violence, rather than to participate in

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violence, this being in keeping with the Arts Commission's power to suspend or revoke the certificate of any street artist when, after public hearing, it appears that the artist was conducting his or her business in a disorderly, improper or hazardous manner; the motion was seconded by Commissioner Metwally and unanimously approved.

The meeting adjourned at 4:50 p.m.

Respectfully submitted:
Howard Lazar
Howard Lazar

A P P E N D I X

HEARING ON ALLEGED VIOLATION

David Samuel - Certificate #2256. Alleged violation: assaulting former certificate-holder Nicholas Quirarte (Michael Rogers); complaint submitted by Claudia Hart. The Commissioners read a statement submitted by Mr. Samuel prior to the hearing. Claudia Hart, the street artist who had submitted the complaint, was not present; nor was Nicholas Quirarte, Ms. Hart's husband.

Program Director Lazar stated that the complaint alleged that David Samuel attacked Nicholas Quirarte on May 1, 1988, at about 3:45 p.m., on Beach Street (near Hyde). Accompanying Ms. Hart's letter was a statement from a customer named Heidi Gibbs, which stated that she had observed the attack. Mr. Lazar told the Commissioners that he had questioned Ms. Gibbs over the telephone; his findings were included in the package of witness statements sent to the Commissioners prior to the meeting.

Mr. Lazar's request to proceed with witness testimony was approved. He called for Claudia Hart. Street Art Inspector Brown said that he saw Ms. Hart in the doorway, look into the room, and then leave. Mr. Brown was asked to go out and find her and tell her the hearing had begun.

Mr. Lazar informed the Committee that his letter-request to Ms. Gibbs to attend the hearing had been sent back and received by the office that day. He telephoned Ms. Gibbs and found that she had moved and was unable to attend but would be available to testify at another time. Mr. Lazar told the Commissioners that, in the course of his previous telephone interview, Ms. Gibbs had stated that, as a customer at Ms. Hart's stand, she had not known of anything that had transpired between David Samuel and Nicholas Quirarte prior to the incident, and that she saw Samuel come up from behind Quirarte and "grab" him, and in an instant the two were down on the ground fighting. While she could not remember, Mr. Lazar said, exactly how or where Samuel had "grabbed" Quirarte, Samuel's act, to her, had looked aggressive "from his part."

Mr. Lazar was asked to read Ms. Hart's letter-complaint. In addition

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to Mr. Samuel's alleged assault, it alleged to his "unprofessional conduct in dealing with prospective clients ..." including his allegedly calling a customer "a stupid nigger" because the customer allowed his "two year old little boy ... to relieve himself ... in the gutter between cars." The letter further stated that "without forewarning or provocation," Mr. Sanuel " 'flying tackled' Nick, tearing his shirt irreparably, and winding up on the ground in a scuffle."

As directed by the Committee, Mr. Lazar turned to everyone in the room and asked if there was anyone present who supported the claim that Mr. Samuel was the aggressor in the incident - that is, that he attacked Mr. Quirarte. No one responded.

Street artist Katrina Broomall identified the letter she had written to Mr. Lazar, describing Nicholas Quirarte's behavior prior to the incident. Ms. Broomall told the Commissioners that she did not see the beginning of the fight but that, from a distance of about forty feet, she saw David Samuel on the ground and Nicholas Quirarte standing up and kicking him in the face. Prior to the incident, she had been set up next to Mr. Samuel when Mr. Quirarte had come up and yelled aggressively to Samuel to come down to the beach, that he was waiting for him to settle their differences; at that point, Ms. Broomall said, Samuel turned to her and said he was not interested in fighting Quirarte.

Commissioner Hanson asked Ms. Broomall if she had ever observed any kind of the alleged rudeness by Samuel to customers. Ms. Broomall answered that she did observe the incident related in Ms. Hart's letter but that Ms. Hart's description was "inaccurate": first of all, the little boy had relieved himself in the bushes, not in the gutter; secondly, he was more than two years old; and thirdly, there was a confrontation in that Samuel told the man that his child should be taken to the bathroom, and not in the bushes; but "at no point" did Samuel call the man "a nigger."

Street Art Inspector Wallace Brown related the contents of his written report. On the day of the incident, Mr. Brown was at the Wharf, but he did not observe the fight. Prior to the incident, at approximately 1:15 - 1:30 p.m., Mr. Brown left Hyde Street and came to Beach Street to commence inspecting displays. As he approached the display of Mari-Ellen Rowe, Ms. Rowe saw him and grabbed the tarp displaying her jewelry, folded it up, and threw it on the ground. He asked her to open it up. She told him she was in a hurry to leave. At this point, Nicholas Quirarte, who was behind Claudia Hart's display (in the next space), immediately started calling Brown a "police pig ... picking on this poor lady, trying to stop her from making a living ..." and that Brown had "busted him" (Quirarte) "to take his license because he hit a drug dealer in the mouth ..." Brown said that Quirarte "got right in my face", yelling loudly, and that the only way he could avoid getting into a physical fight with Quirarte was to walk away. Mr. Brown had not been able to see what Ms. Rowe was selling. Quirarte followed him a distance of three displays, and Brown walked away. Later on when Brown was at the end of the line of displays (Beach #47 space),

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Quirarte accosted him again and told him he should be working with him to get his license back, that they were both veterans. Quirarte then started to yell that street artist A. B. Petrow was a drug dealer, pointed at another artist, Rick Rochlin, and screamed at him repeatedly: "You were addicted by this guy" - until Mr. Rochlin said that he had been addicted. The only way that Mr. Brown could get away from Quirarte was to go across the street whereupon he caught the bus to Taylor Street. In response to Mr. Lazar's questions, Mr. Brown stressed that Quirarte had announced Brown's presence on the street by creating two "scenes" which, in essence, deterred Brown's ability to find any illegal item being sold by an artist who might not have been aware of his presence. Mr. Lazar stated to the Committee that, as the Program's Director, he considered this as obstruction to staff duty. Mr. Brown corroborated this and said that if Quirarte was a licensed street artist, Brown would have cited him for this.

Mr. Lazar referred the Commissioners to the copy of the Police Report filed by Mr. Samuel.

Street artist Craig Cassin identified the letter he had written to the Program Director and told the Commissioners that he was at the end of the line of displays when he heard a commotion and saw Quirarte, thirty feet away, standing face-to-face with Inspector Brown and aggressively pointing his finger at him and yelling loudly at him, then at Rick Rochlin, "making quite a scene" above the regular din of traffic and drums" in the park. He heard Quirarte yell at Rochlin to admit he was an addict and that "A. B." (Petrow) "is a dealer." Mr. Cassin did not see the fight. He saw David Samuel afterward and saw that he had a bump on his head and looked like he had been injured.

Street artist Linda Pedersen identified the letter she had written to the Program Director and told the Commissioners that she was set up at the end of the line of displays, close to Craig Cassin's display, where she observed Inspector Brown walking down the sidewalk. Mr. Brown stopped at her display when Quirarte suddenly emerged on the scene and "was in his" (Brown's) "face, literally six inches away ..." Quirarte seemed to be agitated about a letter he had written to the Arts Commission and was telling Brown: " 'Wally, why don't you be a man ...' " and Brown told him that the agency was working on it. This went on for a few minutes, with potential customers walking by Ms. Pedersen's stand and having to go around them, unable to look at her items. Brown and Quirarte moved away to the grassy area and continued for anout ten minutes. At one point, Quirarte pointed at Rick Rochlin and hollered: " 'You're a drug addict ... Didn't A. B. give you drugs' ... Everything stopped ... People were watching them. People thought there was going to be violence ... Finally Nick stomped off, saying 'Fine, I hit a drug dealer and I lose my license!' As he went down the street, we sort of all got together and literally said I feel sorry for the next person that gets in his way." Later on Ms. Pedersen saw David Samuel whose "face was a mess ... blood, scratches, bumps ..."

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Commissioner Hanson said that as the artists were frequently losing business due to Mr. Quirarte's presence, would it not be proper to consider enjoining Mr. Quirarte from the street artist locations. Commissioner Metwally responded that most of the testimony received thus far was pertinent to consider enjoining him.

Street artist David Samuel told the Commissioners that he was not the aggressor in the incident, that he did not attack Mr. Quirarte. He said that for the past year Quirarte had been harrassing him and the other witnesses who had testified against Quirarte on his assault charge before the Arts Commission. "He drives by," Samuel said, "spits at us, yells profanities at us ... and he was doing this all to me the day of the incident, May 1st." Samuel was set up on space "Beach #7" next to Ms. Broomall. His car was parked adjacent to Claudia Hart's display. She and Quirarte were leaning up against it all day. At one point in time, as Samuel walked by, Quirarte threatened him; Samuel turned around and walked back to his display. He ignored Quirarte's yelling of profanity at him. At another point in time, Quirarte walked almost in front of Samuel's display and "yelled out to everybody who could hear: 'I'm going down to the beach. Come on down, David - let's go fight.' I turned to Katrina and said, 'I'm not interested. I'm not going to fight this guy. That's rediculous.' "

Commissioner Hanson asked him what the content was of Quirarte's threat. Mr. Samuel replied: "He said, 'I want to bust your f_____g face in.' " Prior to this, Samuel said, Quirarte was talking to people at Ms. Hart's display and pointing at him and saying derogatory words which Samuel was trying to ignore. Samuel said that Quirarte is frequently at the street artist space-assignment lotteries, threatens many people, and is always screaming at Inspector Brown.

Continuing with his testimony, Mr. Samuel stated that Quirarte went down to the Beach, came back and stood in front of Samuel's display, swore at him, and yelled at him as to why he didn't come down to the beach to fight him. Samuel ignored him; he had customers in front of his display. Quirarte walked over to Samuel's van. swore at him again, gave him an obscene gesture, then turned and spat on the side of Samuel's van. Samuel walked over to him and told him to wipe it off. Quirarte called him other profane words, said he wasn't wiping anything off, turned around and walked away. Samuel "reached over, and I took his arm; next thing I know I was flat on my back. ... John Shaw, the kite man ... grabbed me and was pulling me away from Nick, and Nick started kicking me in the face and the chest, because my arms were immobilized ... What happened was when I reached for Nick, he grabbed my arms and pulled me off-balance toward him, at the same time yelling at the top of his lungs, 'Why are you attacking me, David! Why are you attacking me!' And then he threw me backwards, and I landed flat on my back. And that's when he started kicking me. ... I was wearing my glasses; I would not attack somebody, wearing my glasses which ended up being destroyed. ... My entire face was covered with blood. He put a lot of cuts on my nose ... And I had bumps on the side of my head where he kicked me." Samuel had X-rays taken of his spine; he was in such

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pain that he could not sit for over a week. John Shaw, who had tried to pull him away, later apologized to him, saying " 'I wish I had let you be, because there was a possibility you might have been able to protect yourself more.' "

Mr. Samuel added that, after his filing a Police report, the Police arrested Quirarte for this assault, and the District Attorney had felt that there was a case against him because of Samuel's having been a witness against him in the case of his other assaults, which was heard by the Arts Commission. Mr. Samuel said that he learned that Quirarte went to court on July 8th and received a five-day contempt of court. He is scheduled to appear in court again on August 2nd.

Mr. Samuel referred the Commissioners to a leaflet, attached to his statement, which was recently handed out, he said, at a Saturday lottery by Quirarte and Mari-Ellen Rowe. The leaflet asks the questions: "Has David Samuel ever verbally assaulted you?" "Has David Samuel ever physically intimidated you?" "If the answer is yes to any of these questions, why don't you come to David's hearing by the Art Commission ..." Mr. Samuel received the leaflet from his wife who had received it from Ms. Rowe.

Commissioner Hanson questioned Mr. Samuel on the written allegation by witness Heidi Gibbs that he ran toward Quirarte. Mr. Samuel said that he did not run toward him; he walked over to him, after Quirarte spat on his van. Samuel told the Commissioners that he did not call the Police because he knew from experience that the Police would not come out if he told them that someone spat on his van.

Commissioner Metwally summarized the findings from the hearing: there was one witness why by letter and telephone alleged that Samuel assaulted Quirarte, but the witness was not present; there was one witness who saw the middle of the fight; there were various witnesses whose testimony established Quirarte's character and style of behavior with people. The Commissioner said she did not see enough evidence to find that Samuel assaulted Quirarte.

Commissioner Hanson stated she was in accord with this, and asked if there was anyone present with any evidence or substantial opinion that would be against this ruling.

Street artist Eunice Rodriguez stated that he has known David Samuel for twelve years, and that twelve years ago she had had a confrontation with him, bujt that they were very good friends now. She said that he was "not difficult to get along with; he's not an agitator."

Street artist Mark Monsarrat stated that in his five years as a street artist he has never seen or heard of David Samuel becoming violent. He stated that he, too, had been in an exact, parallel situation with Quirarte. He asked if there was any way that the Arts Commission could pursue a restraining order on Quirarte.

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Street artist John Bass stated he was a witness at Mr. Quirarte's revocation hearing. Mr. Bass supported the Arts Commission's seeking an injunction to keep Quirarte from coming within a specified distance of any street artist in any street artist location in the city. He said that the Arts Commission, as a City department - and not the artists - should have the resources to seek an injunction. Furthermore, the Commission has a responsibility to the people who took the risk to come forward and testify against Quirarte.

Street artist Dikran Knoble said he has known Mr. Samuel for fourteen years and has never seen him act in an unpleasant manner.

Street artist Kirk Turner said he was in support of an injunction against Quirarte. He said that he, too, was a witness against him and that, since that time, has received several obscene telephonecalls from him which are on tape and are filed with the Police.

Commissioner Metwally moved that it be found that there was insufficient eveidence to support the charge, and that the charge of assault by David Samuel be dismissed; the motion was seconded by Commissioner Hanson and unanimously approved.

Commissioner Hanson moved that the Arts Commission proceed to determine a legal way to restrict the presence of Nicholas Quirarte from any street artist location, including any location where a street artist lottery for spaces is held, during street artist business hours; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson moved that it be the policy of the Arts Commission to expect street artists to walk away when violence is threatened, to do what is necessary to avoid violence, rather than to participate in violence, this being in keeping with the Arts Commission's power to suspend or revoke the certificate of any street artist when, after public hearing, it appears that the artist was conducting his or her business in a disorderly, improper or hazardous manner; the motion was seconded by Commissioner Metwally and unanimously approved.

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SF Arts Comm.

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STREET ARTISTS PROGRAM COMMITTEE

August 24, 1988
Main Library-Civic Center
Commission Room
San Francisco, California

M I N U T E S

Commissioners present: Hanson, Metwally

Commissioner Hanson, Chair, called the meeting to order at 3:40 p.m.

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Art Agnos

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Commission

DIRECTOR
Claire N. Isaacs

I HEARINGS ON ALLEGED VIOLATIONS

A. John Cracas. Mr. Cracas was not present. Program Director Lazar stated that he had received a copy of a summons for Mr. Cracas to appear in Municipal Court, Traffic Division, scheduled for the same afternoon as his Program Committee hearing. Mr. Lazar presented the copy to the Committee. Commissioner Metwally moved that Mr. Cracas' hearing be continued to the following month's meeting of the Committee; the motion was seconded by Commissioner Hanson and unanimously approved.

B. Martin Butschek. Mr. Butschek was not present. Mr. Lazar submitted to the Committee a letter fr m Attorney Craig Kepler requesting a continuation due to the attorney's prior commitments. Mr. Lazar told the Commissioners that the City Attorney's office felt that since this was the first time Mr. Butschek was notified for hearing on this case, and since it appeared his attorney had only very recently been requested to represent him, it would be in order for the Commission to grant a continuation at this time. Commissioner Metwally moved that Mr. Butschek's hearing be continued to the following month's meeting of the Committee; the motion was seconded by Commissioner Hanson and unanimously approved.

C. Gat Wah Lee Chen. Mr. Lazar submitted his "Report of Alleged Violation of Street Artists Ordinance" and photographs of Mrs. Chen's display taken on July 1, 1988, 3:00 p.m., on Beach Street (at Hyde). He had cited her for (1) displaying items not of her own creation (metal-beaded necklaces on cotton thread, made in India, and commercially-manufactured inlay earrings); and (2) displaying items not in accord with Arts Commission criteria (button-bead earrings not in accord with the "buttoncraft" criteria). Mr. Lazar submitted evidence of the alleged necklaces from India: necklaces he purchased at two stores in the Gift Center. He called the Committee's attention to the purchased strands as depicted in the photos of Mrs. Chen's display: one strand comprised of a sequence of two black beads and three silver beads, the same strand, he said, he purchased at Wing Lee Trading for $5.00; another

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strand comprised of copper beads, also purchased, he said, from Wing Lee Trading; and a third strand, which Mr. Lazar's purchased evidence bore the label "made in India," comprised of brass, silver, and copper beads (the evidence sample purchased from Manson Accessories, Inc.). All the evidence strands, Mr. Lazar said, were purchased from the stores at $5.00 each.

Commissioner Metwally asked Mrs. Chen what prices she had been asking for the necklaces depicted in the photos. Mrs. Chen replied $15.00 and $18.00. She also stated that she had purchased all of the strands as was submitted as evidence. She said she often shortened the strands into bracelets and earrings.

Mr. Lazar clarified that while street artists may shorten or re-string store-bought necklaces, the artists are nevertheless prohibited from selling them as the same design pattern as purchased. Mrs. Chen told the Commissioners that she did not change the pattern for all the necklaces. She also stated that there were other artists who sold more of such items than she had.

Mr. Lazar said that the button-bead earrings for which he had cited Mrs. Chen were round, bead-like buttons attached to commercially-manufactured posts or pins, and that Mrs. Chen had not altered the button-beads at all. Mrs. Chen told the Commissioners that she drilled the holes for the posts. Mr. Lazar said this was not sufficient to warrant it as a craft. The Commissioners reviewed the "buttoncraft" criteria in the Program's bluebook: "Commercially manufactured buttons used as jewelry must be predominantly and/or significantly altered on the face of the button - for example, with painting, carving, collage - or they must have two or more integral parts - for example, additional buttons, beads, feathers, or metal parts - that significantly alter the commercially manufactured button."

Commissioner Hanson explained to Mrs. Chen that the primary rule of the Street Artists Program is that the artist must make the work he/she sells, and that a violation of this rule merits a suspension of certificate for two months. The penalty, she said, was meant to be severe because the Arts Commission meant for street artists to sell only what they make. Mr. Lazar added that this was the purpose of the law's Advisory Committee screening Mrs. Chen's wares prior to her receiving a certificate.

The Commissioners explained to Mrs. Chen the hearing and appeal procedire involving the Program Committee, the Arts Commission, and the Board of Permit Appeals, and Mrs. Chen's right to appeal at every level of the procedure. The Commissioners also clarified that she could continue selling until any suspension would be imposed on her. The Commissioners informed her of the approximate time of her two-month suspension (if approved): a period extending from the third week of September to the third week of November, if Mrs. Chen chose not to go to the Board of Permit Appeals; or a period from mid-October to mid-December, if she did go to the Board of Permit Appeals and the Board upheld the Arts Commission's decision.

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Commissioner Hanson moved that Mrs. Chen be found in violation of the street artists ordinance by having displayed items (beaded necklances) not of her own creation; and that Mrs. Chen's certificate be suspended for a period of two months, as per the standard penalty for such violation; the motion was seconded by Commissioner Metwally and unanimously approved.

Mr. Lazar stated that he would send Mrs. Chen a letter informing her of the date, time, and location of the Arts Commission meeting.

D. Yu Chun Ngan Suen. Program Director Lazar submitted his "Report of Alleged Violation of Street Artists Ordinance" with photographs of Mrs. Suen's display taken on July 1, 1988, 3:10 p.m., on Beach Street (at Hyde). Mr. Lazar had cited her for (1) displaying items not of her own creation (metal-beaded necklaces on cotton thread, made in India); and (2) displaying items not in accord with Arts Commission criteria (button-bead earrings not in accord with the "buttoncraft" criteria).

With respect to the alleged violation of criteria, Mrs. Suen told the Commissioners that she made the holes in the beads for the posts. Mr. Lazar clarified that this was not sufficient to meet the criteria, that she must, for example, paint or carve on the bead-button itself in order to significantly alter the button. Mr. Lazar clarified that the new criteria, "buttoncraft," was adopted some time after Mrs. Suen had been certified; there was the possibility that she may not have been aware of the criteria. She did not call the office for an appointment to screen the button earrings. She may have, he said, considered the button earrings as part of "beadcraft" for which she was already certified.

Notwithstanding this, Mr. Lazar said, Mrs. Suen's display of necklaces which she did not make was a clear violation of the ordinance. Mr. Lazar called the Committee's attention to several necklaces in the photograph and matched them with samples he had purchased from the Gift Center: a necklace comprised of the pattern one silver bead followed by one black bead (the evidence purchased from Wing Lee Trading); and a necklace comprised of the pattern four silver beads followed by four brass beads followed by four copper beads (the evidence purchased from Manson Accessories, Inc.).

Mrs. Suen told the Commissioners that she had not displayed the items for the purpose of selling them; she had purchased them in order to make earrings and bracelets from them, or to extract beads from them to be made into her own designs, at the request of customers. She said she had forgotten to store the purchased necklaces under her display.

Commissioner Metwally clarified that Mrs. Suen was not entitled to display these necklaces or to hang them from her display, as was noted in the photos.

Commissioner Hanson moved that Mrs. Suen be found in violation of the

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street artists ordinance by having displayed items (beaded necklaces) not of her own creation; and that Mrs. Suen's certificate be suspended for a period of two months, as per the standard penalty for such violation; the motion was seconded by Commissioner Metwally and unanimously approved.

Commissioner Hanson informed Mrs. Suen of the steps in the hearing-appeal procedure involving the full Arts Commission and the Board of Permit Appeals. Mr. Lazar told her he would notify her of the date, time and location of the Arts Commission meeting.

While the Commissioners noted that the penalties for violations were listed in the Program's handbook (bluebook), which is disseminated to all street artists, Commissioner Metwally proposed that the Program compose a simple, one-page information sheet listing the offenses and their penalties. This would, she said, be more easily understood by all artists, especially for those who speak minimal English. Mr. Lazar proposed that the offenses be shown in pictures also, so that they could be more universally understood. Commissioner Metwally also proposed that the information sheet reference the handbook to the pages on which the offenses and penalties are discussed.

II REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE

A. Zhenbin Feng - Certificate #2863 expired February 3, 1986; his request for priority was received by the Program on June 24, 1988 (hearing rescheduled from July 19, 1988). Mr. Feng was not present. No action was taken.

B. Danielle LeBon - Certificate #2872 expired May 10, 1988; renewal payment from Ms. LeBon was received by the Program on August 14th. Commissioner Hanson moved that Ms. LeBon's request for priority be approved; the motion was seconded by Commissioner Metwally and unanimously approved.

III RECOMMENDATIONS FROM STREET ARTISTS LIAISON COMMITTEE RE: LOTTERY PROCEDURES

Mr. Lazar reported that it was necessary for the Liaison Committee to meet on the recommendations they had initially proposed in order to refine them before submitting them to the Program Committee.

The meeting adjourned at 4:50 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

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10/14/88

SF Art Commission

THE ARTS COMMISSION OF SAN FRANCISCO

45 Hyde Street
Suite 319
San Francisco, CA 94102
415 558 3463

STREET ARTISTS PROGRAM COMMITTEE

October 14, 1988
Main Library-Civic Center
Commission Room
San Francisco, California

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Presidents of the
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Planning Commission,
Recreation and Park
Commission

DIRECTOR
Claire N. Isaacs

Commissioners present: Metwally, Warburg

Commissioner Metwally called the meeting to order at 3:35 p.m.

I HEARINGS ON ALLEGED VIOLATIONS

A. John Cracas - Certificate # 2993. Mr. Cracas was not present. Program Director Lazar presented a letter received the day before from Mr. Cracas, requesting a postponement of his hearing; and a letter received that morning from Mr. Cracas' attorney, Mr. Bruce Bernstein, stating his inability to be present, his advice to his client to not attend the hearing without him, his request for postponement, and his acknowledgment of his client's right to appeal the Committee's recommendation.

Mr. Lazar clarified that Mr. Cracas had been scheduled for a hearing with the Program Committee on August 24th and the Committee had granted him a postponement because of his commitment to be in court that day. Mr. Lazar had then written to Mr. Cracas on September 14th informing him that there would be no meeting of the Committee in September and that his hearing was rescheduled for the meeting of October 14th. While Mr. Cracas now had an additional month to prepare his case, his attorney contacted Mr. Lazar as late as September 30th and told him that he had only recently been retained. Mr. Lazar told him he would not ask the Program Committee for another postponement, as Mr. Cracas had been notified for hearing two months previously, had had ample time to retain an attorney, and that furthermore the Arts Commission's hearing procedure provided that, if an artist did not appear for hearing, the Program Committee could recommend the penalty for the violation of which the artist is charged.

Commissioner Metwally ascertained that the witness, former Street Art Inspector Wallace Brown, was present to give testimony. The Commissioner recommended that her Committee proceed with the hearing; Commissioner Warburg concurred.

Mr. Brown acknowledged the written report he had made in reference to Mr. Cracas on May 22, 1988 and described the incident. On that day Mr. Cracas was set up on Leavenworth

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Street close to the corner of Jefferson Street. (Mr. Brown drew a map of the location on the blackboard.) He said that Mr. Cracas had been assigned to the selling space known as "Leavenworth 1" whose number and dimension brackets were painted on the sidewalk. Instead of having his display in accord with the configuration of the brackets, which describe an area four feet long and three feet deep, Mr. Cracas had set up his display in a configuration of three feet long and four feet deep, therefore exceeding the depth dimension by one foot and placing the display into an area not designated for selling.

In addition, Mr. Brown stated that Mr. Cracas was exceeding the five-foot height limit of the display by having a sign attached to the display which added a foot to its height. Mr. Brown said that he had verbally warned him about the sign on many occasions. Furthermore, he had given him a written warning nearly a year before, on September 5, 1987, for his display exceeding the width dimension by one and a half feet and not being in the legal configuration of the space. (Mr. Lazar showed the Commissioners a copy of the written warning, as well as the photograph which Mr. Brown took of the display on May 22, 1988.)

Mr. Brown stated that Mr. Cracas' sign, which caused the display to exceed the height limit, had blocked the public's view of the other portrait artists in the adjacent spaces.

Commissioner Metwally moved that it be recommended that John Cracas be found in violation of the street artist ordinance by selling in an area not designated by the Board of Supervisors (by exceeding the three-foot depth dimension) and by exceeding the five-foot height limit of the display; and that Mr. Cracas' certificate be suspended for a period of three weeks, as per the standard penalty for such violations. The motion was seconded by Commissioner Warburg and unanimously approved.

Mr. Lazar stated that he would notify Mr. Cracas and his attorney of the date and location of the next full Arts Commission meeting.

B. Martin Butschek - Certificate # 3300. Mr. Butschek and his attorney, Mr. Craig Kepler, were present. Mr. Kepler submitted a written "Hearing Memorandum" and signed declarations by street artists Kathleen Hallinan and Betty Bundschu.

Program Director Lazar referred the Commissioners to the Report of Alleged Violation of July 17, 1988, submitted by former Street Art Inspector Wallace Brown. Mr. Brown testified to his remarks in the report and used the blackboard to describe Mr. Butschek's location at the time of the incident.

On Friday, July 15, 1988, Mr. Brown related, street artist Betty Bundschu had picked selling space "Jefferson 9" and had left her

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table with her lottery slip attached to it in the space. Mr. Brown observed Mr. Butschek between 10:30 - 11:00 a.m. sketching customers. Mr. Butschek's display, he said, was in a U-shaped configuration in Ms. Bundschu's space, enclosing her table. Mr. Brain clarified that, according to the space occupancy rule, when an artist leaves their table and lottery slip in their space, the space is theirs - and theirs alone - throughout the day until midnight, and no other artist may use the space. If Ms. Bundschu had not put her table up, it would have been legal for Mr. Butschek to sell in her space until 11:45 a.m. If she did not appear at 12:00 noon to claim her space, the space could have been re-assigned to another artist. Mr. Brown reiterated that, in this case, Ms. Bundschu had left her table with her slip on it in the space she had selected, which meant that only she could have used the space from the time she received it until midnight. But on Friday, July 15th, he said, Mr. Butschek was using the space. On Sunday, July 17, 1988, at 11:15 a.m., Mr. Brown saw Mr. Butschek in space "Jefferson 6" and gave him a verbal warning that what he had done on Friday was illegal and to not do the same on this day. Mr. Butschek had asked him how he knew this, and Mr. Brown had replied that he had not realized it until some time later when he was examining the spaces sign-up shett. Mr. Brown gave him the warning, he said, to give him the opportunity to leave "J-6" because he suspected that Mr. Butschek was selling in the same manner as he had done on Friday. Mr. Brown left to observe the artists on Beach Street, received the sign up sheet, and returned to Jefferson Street an hour later, 12:15 p.m. He observed Mr. Butschek in the same space as at 11:15 a.m. He went around the back of Mr. Butschek's display and saw Ms. Kathy Hallinan's table in the space. When he told Mr. Butschek he was going to cite him, Mr. Butschek started to pack up his display and he said, "I'm leaving right now." Mr. Brown replied, "It's too late ; you should have been gone already." In summary, Mr. Brown said he saw Mr. Butschek committing the same violation for which he had received a warning.

Mr. Brown acknowledged the sign up sheet for Sunday, July 17th, which Mr. Lazar sumitted as evidence to the Committee. Mr. Brown identified the name of Kathy Hallinan ("Kathy") and her certificate number ("899") entered on the sign up sheet beside Jefferson Street space number "6". He stated that her table had had her lottery slip on it.

Mr. Lazar clarified that the Arts Commission's space occupancy rule may be translated in terms of the street artist ordinance, Ordinance 41-83, as Section 2405(c)(11) which states "... street artists shall sell ... not within five (5) feet of the display of any other street artist." By Mr. Butschek's selling in another artist's space, he said, Mr. Butschek was in violation of Section 2405(c)(11).

Mr. Butschek, in response to questions by his attorney, stated that he sold in space "J-9" on July 15th, that he arrived there after 1:00 p.m., that he never worked there before noon. It was true, he said, that he

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spoke to Mr. Brown on that day, but it was not in the morning. He also stated that there was no lottery slip left in the space.

Mr. Kepler stated that he wanted the Commissioners to note that while Mr. Brown had testified that he saw Mr. Butschek in the space at 10:15 a.m., a sworn declaration from Betty Bundschu said that she did not actually mark her space until shortly before noon.

Mr. Kepler further stated that it was a common occurrence that an artist will put their table up with a lottery slip and that the wind will blow the slip away; another artist arrives later in the afternoon and finds a table there with no slip on it and assumes that it is not a marked space and therefore sets up and works in it. This, he said, is what Mr. Butschek did. According to Ms. Bundschu's declaration, when Ms. Bundschu arrived at her space at about 3:00 p.m., she found that her slip was gone, and she told Mr. Butschek that she had been given the space, and he voluntarily vacated it. Mr. Kepler stated that he did not feel that what happened on July 15th was relevant to what happened on July 17th, other than Mr. Brown's statement that he gave Mr. Butschek a warning.

In answer to further questions by his attorney, Mr. Butschek stated that he arrived at "J-6" in the morning, and found that the space had not been marked. Ms. Hallinan arrived to claim her space at about 11:45 a.m. She set up her display with her lottery slip on it. Mr. Butschek had a customer. Ms. Hallinan told him not to worry, that she had some business to attend to. Mr. Butschek told her he would vacate the space as soon as possible. Mr. Brown approached him and said, "Oh, you're here?" and Mr. Butschek explained to him that Ms. Hallinan had just arrived and put up her display and lottery slip, and for that reason, he had to finish with his customers.

At this point in the hearing, Mr. Butschek asked Mr. Brown is he recalled that he had customers at the time and that he would like to finish drawing them. Mr. Brown replied that it was already after 12:00 noon when he came back and saw Mr. Butschek still working while Ms. Hallinan's table was there with a slip on it.

Commissioner Metwally asked Mr. Butschek if he was working in that location after 12:00 noon. Mr. Butschek responded that he did not look at his watch, that he was busy drawing.

Mr. Kepler stated that Mr. Butschek was not somebody who is a violator of the rules and was not somebody who usurps artists' spaces which, he said, was a common practice among street artists. When seeing that the owner of a space arrives, Mr. Butschek is one who is willing to finish with his last customer and to pack up and leave. There is no one in this situation, Mr. Kepler said, who is inconvenienced. Perhaps his client should have been more watchful of the clock at around 11:35 a.m.; his only offense, he said, was a little bit of neglect of the time. Since this was the first time Mr. Butschek was ever cited for this offense, Mr. Kepler said that a warning in his file would be more appropriate than a suspension of his license for three weeks.

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Mr. Kepler stated that he thought Mr. Brown's warnings were inherently unreliable; there was a sworn statement from the person who was assigned the space. Mr. Brown's warning, he said, should not be given any great credence; the Committee should limit its consideration to the facts that occurred on July 17th.

Program Director Lazar asked Mr. Kepler why Ms. Bundschu and Ms. Hallinan were not present. Mr. Kepler replied that he did not want to ask them to take an afternoon off from their work to come in. Mr. Lazar stated that in these violation hearings, there were many people he would have not wanted to call in, but he had been told by the City Attorney's office that their signed statements would not be sufficient for consideration at a hearing, that they must come in to testify, otherwise their written statements might be considered as heresay.

Mr. Kepler stated that in law-in-motion, a sworn statement is admissable as evidence. He assumed that law-in-motion applied to an administrative hearing as well as in court.

Commissioner Metwally summed up that there was a dispute over the time the space was marked on July 17, 1988. She stated that ignorance of the law was no excuse, that street artists are responsible for knowing the rules and abiding by them. She stated that they had heard many cases in which the violation had been committed for the first time. The Commission was trying to be more systematic by adopting standard penalties. The Commission wanted people to know that they have to abide by the rules.

Mr. Kepler responded that while he understood that the Commission was attempting to send a signal to the artists, he felt that in the recent Gat Wah Lee case in which there was a blatant resale of wholesale merchandise, such a signal was not sent to the artists - in fact, the suspension was waived. While the Gat Wah Lee case involv d a direct violation of the whole purpose of the Program, Mr. Butschek's case, he said, represented simply a few minutes' lag time of a minor administrative rule by somebody who otherwise attempts to comply with the Program. Mr. Kepler said he and his client were appealing to the Commission's discretion in granting some leniency in this matter.

Commissioner Metwally stated that, in her view, the Arts Commission had made it clear what the rules are, and that all the artists have the same responsibility to respect and abide by the rules, and that furthermore it is very easy to wear a watch and to abide by time. She did not, therefore, see any reason for leniency in this case. She recommended that Mr. Butschek be found in violation and that he receive the standard penalty.

Mr. Butschek stated that he had not been aware of the rule, and that it was currently being violated.

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Mr. Lazar clarified that the space occupancy rule came from representatives of the Street Artists Program; it had not been proposed by the staff nore by the Commission. It was brought through several hearings of the Street Artists Program Committee and Arts Commission.

Commissioner Metwally moved that it be recommended that Martin Butschek be found in violation of the street artist ordinance by selling within five feet of the display of another street artist; and that Mr. Butschek's certificate be suspended for a period of three weeks, as per the standard penalty for such violation. The motion was seconded by Commissioner Warburg and unanimously approved.

II NEW BUSINESS

Mr. Lazar introduced Mr. Joseph W. Thomas, the new Street Art Inspector, to the Commissioners.

The meeting adjourned at 4:50 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar